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**All is quiet on the partnerships front -
scrutinising power dynamics in cocoa partnerships and their effects on child rights
advancement in Ghana**

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ALL IS QUIET ON THE PARTNERSHIPS
FRONT - SCRUTINISING POWER
DYNAMICS IN COCOA PARTNERSHIPS
AND THEIR EFFECTS ON CHILD
RIGHTS ADVANCEMENT IN GHANA

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To those who made this research possible,
Angiolina and Rosetta Maggi

ABSTRACT

This research looks at public private partnerships in Ghana and their role in promoting legal compliance with child rights by guaranteeing efficiency and enforcement.

Child rights face a number of obstacles when being enforced in Africa. The causes of poor legal compliance are three-fold: legal transplants as well as exogenous and endogenous causes of poverty. Partnerships among civil society, governments, international organisations and companies try to offer a solution to poor legal advancement, by implementing projects which affect the enforcement and efficiency of child rights.

This research is intended to contribute to the literature which already exists in relation to partnerships and human rights, and make a strong contribution to the existing reflections on the role of partnerships in human rights advancement. Given cocoa partnerships have a long and established history, I decided to use them as case study. The conclusions derive from my field research which involved conducting interviews with chocolate and cocoa companies, NGOs, trade unions and public organisations in the UK, USA, Switzerland and Ghana.

Existing literature on human rights and partnerships tends to provide only a surfaced limited analysis of partnerships. It rests on the claim that multinationals have enormous power and thus prevail in partnerships, ultimately favouring the privatisation of human rights. It seemed important, therefore, to explore in depth the power dynamics between businesses, public organisations and civil society organisations in order to properly understand what has become one of the most popular institutional organisations for the advancement of human rights.

INTRODUCTION: THE RISE OF PARTNERSHIPS

This research examines Public Private Partnerships (PPPs) and their role in addressing human rights issues along supply chains, specifically child rights in Ghana alongside cocoa supply chains.

Partnerships are indicative of a shift in governance, as they reflect a change in the way decisions are taken, and either implemented or not implemented in terms of human rights advancement (Alter and Hage 1993; UN ESCAP).¹ These decisions are either taken at the international level through initiatives promoted by the United Nations or they are taken at the national level when private, public and civil society partner locally.

Partnerships are voluntary and collaborative relationships between public organisations (governments and international organisations), civil society organisations and businesses which voluntarily decide to collaborate to achieve a common goal, for example protecting human or environmental rights along companies' supply chains. The US were the greatest promoter of public private partnerships (Bäckstrand 2006), but it is with the creation of the Global Compact in 1999, which will be later presented, that businesses and governments made an official call on NGOs to abandon antagonistic behaviour against corporations (Buzzard 1999; Waddell and Brown 1997) and to collaborate with them to tackle poverty and advance human rights (Oxfam 2008; Utting and Zammit 2006).

In PPPs different parties decide to undertake 'specific tasks, share risks, responsibilities, resources, competencies and benefits' (Report of the UN Secretary-General 2003:4), in the belief that states have failed in meeting their obligations and only a coordinated strategy can effectively advance human rights (Axelrod 1984; Bäckstrand 2006; Scherer and Palazzo 2011) and protect companies' reputation (Pedersen and Andersen 2006; Roberts 2003; Ryan 2011; Utting 2002).

Partnerships are inspired by cooperation theories according to which individuals can make choices effectively and develop a pattern of mutual cooperation with 'the other', ultimately reaching the results desired by all parties (Axelrod 1984). This close collaboration between different organisations has led many to believe that it is difficult to draw a line between

¹ For the purpose of this research the working definition of governance is 'the process of decision making and process by which decisions are implemented or not implemented' (UN ESCAP).

‘private’ and ‘public’ spheres (Fleming and Jones 2013; Utting 2002). In fact in countries where state agencies failed at eradicating poverty and protecting the rights of citizens, companies have come to play a major role in the provision of public goods such as health services, education, social protection and programmes to protect human rights (Matten and Crane 2005; Scherer and Palazzo 2011).

Authors who have analysed partnerships and human rights (Ashman 2001; Utting 2001; Utting and Marsques 2010; Zammit 2003; Murphy and Bendell 1999) have reflected upon the organisations involved in these new forms of institutional organisations and have argued that those involved believe social conflict is something ‘from the past’. Utting explains that parties involved in PPPs decide to pursue collaborative strategies in the belief that conflict between different players can be overcome in the name of common goals – respect of human rights and poverty eradication. Guided by this belief, partnership members (civil society, public and private organisations) claim that collaboration is the new way forward to protect and advance human rights while addressing poverty factors which hinder their advancement.

It is now argued that partnerships have become central to the advancement of children’s rights. The launch of the Children’s Rights and Business Principles in 2012 provides a clear example. The Global Compact together with Save the Children (a global NGO) and UNICEF decided to develop a ‘set of principles to guide companies on the full range of actions they can take in the workplace, marketplace and community to respect and support children’s rights’ (UN Global Compact).² They organised a number of consultations with companies, national human rights institutions, academia, children and international organisations to receive input on the content of the Children’s Rights and Business Principles (www.unglobalcompact.org).³ These principles, clearly state that businesses should:

‘seek to advance human rights, including children’s rights, through core business activities, strategic social investments and philanthropy, advocacy and public engagement, and working in partnerships and other collective action’. (Children’s Rights and Business Principles 2012:5)

² Un Global Compact

http://www.unglobalcompact.org/issues/human_rights/childrens_principles.html

³ Participants included: 400 companies and 400 children in nine countries, http://www.unglobalcompact.org/docs/issues_doc/human_rights/CRBP/FAQ.pdf

Human rights and labour rights are often considered as having separate identities; the former category tends to neglect the latter and references are often made to them as two separate rights categories (Chan 1998). However, in this research I will refer to children's rights in labour activities, thus to labour rights, as a sub-group of human rights.

This research has demonstrated that partnerships play a key role in ensuring human rights efficiency and legal compliance. In fact, as the case study will demonstrate, cocoa partnerships have been one of the main drivers in building schools, training teachers, monitoring child labour and improving child education in Ghana. More recently cocoa partnerships involving the industry, the governments of Ghana and US and the International Labour Organisation have also funded the enforcement of a new child labour monitoring system in Ghana. At the time of writing a child labour monitoring system is being piloted by the government of Ghana (greater details will be provided later on in this chapter).

Partnerships have taken on the role of a regulatory body by promoting legal compliance and ensuring what Cotterrell (1984) describes as efficiency and enforcement. Efficiency here is defined as the oversight and provision of public service such as education and health. Enforcement refers to establishing measures and supervision mechanisms to ensure compliance with the law, as is the case with the child labour monitoring system.

For the reasons cited above it is possible to claim that companies, civil society and public organisations have acted collectively - through PPPs - as a regulatory body to ensure efficiency and enforce legal measures that protect children from hazardous employment in cocoa growing areas.

Through this research I want to explore the role of partnerships in ensuring legal compliance and their impact on child rights in countries where legal enforcement and efficiency remains weak. Specifically, I will look at the protection of children from the worst forms of child labour⁴ in Ghanaian cocoa production. I will do this by using a conceptual analysis of power that will help define the role of partnerships' members. I will present the power framework I intend to use in chapter two.

⁴ 'Child' shall apply to all persons under the age of 18. 'Worst Forms of Child Labour' is defined by Art 3 of ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182), section (D) WORK WHICH, BY ITS NATURE OR THE CIRCUMSTANCES IN WHICH IT IS CARRIED OUT, IS LIKELY TO HARM THE HEALTH, SAFETY OR MORALS OF CHILDREN.

Partnerships started gaining momentum with the 1992 Rio Declaration on Environment and Development, where companies were urged by public opinion, civil society and public organisations to reduce their negative impact on the environment (Oxfam 2008; Utting 2000).

Since then, large multinational enterprises have increasingly sought out partnerships with governments, international organisations and non-governmental organisations (NGOs) to ensure their compliance with human and environmental rights, including the operation of supply chains in line with human rights standards (Utting 2000; LaFrance and Lehmann 2005).

Meanwhile, NGOs and international organisations, disenchanted by governments and having lost considerable statutory funding, have sought to partner with businesses (Murphy and Bendell 1999). Outcomes of this new tendency include the creation of partnerships between Rio Tinto and UNCTAD; Total and UNESCO; WWF and Unilever; and General Motors and World Resources Institute (Utting 2000). Partnerships have been growing in number in all kinds of business, from the energy to the commodity and financial sectors.

In 1999 Kofi Annan inaugurated one of the most popular forms of PPPs between civil society, public and private actors. Known as the Global Compact, the intention was for all parties involved to collaborate to achieve the Millennium Development Goals (MDG),⁵ increase job opportunities and improve compliance with human rights norms along supply chains (Oxfam 2008; Murphy and Clapp 2008). Since the Global Compact was established, a number of other PPPs have been created to address specific issues surrounding supply chains, including those related to poverty and human rights.

The Global Compact is a platform where businesses join civil society and governments in the promotion of human and labour rights as well as environmental protection (UN Global Compact).⁶ Twenty one companies have signed the declaration, among these: The Bechtel Corporation, The Goldman Sachs Group Inc, Unilever, Cisco System, McKinsey, PepsiCo Inc, De Beers Group, Citigroup, Vodafone and Wal-Mart Stores (Oxfam 2008).

⁵ Eradicate extreme poverty, Achieve universal primary education, Promote gender equality and empower women, Reduce child mortality, Improve maternal health, Combat HIV/AIDS, malaria and other diseases, Ensure environmental sustainability, Create a global partnership for development with targets for aid, trade and debt relief.

⁶ UN Global Compact <http://www.unglobalcompact.org>

Multinational companies have consolidated their role as political actors. By 'political' I mean that a process established itself 'in which people recognise collectively to regulate or transform some aspects of their social conditions, along with the communicative activities in which they try to persuade one another to join such collective actions or decide what direction they wish to take' (Young 2004: 377).

In 2009 the UN adopted a resolution under agenda item 59 'Towards global partnerships'. In the resolution, the UN reaffirmed the important role played by the private sector to achieve the UN's goals (Oxfam 2008). Today, 7700 companies and 400 civil society organisations are members of the Global Compact. Moreover per resolution 64/184 adopted by the UN General Assembly,⁷ the private sector was invited to participate at the round tables of the High-level Plenary Meeting of the MDG in 2010.

Several influential NGOs, however, (Amnesty International, Human Rights watch, Oxfam International and Lawyers Committee for Human Rights) have raised concerns regarding the Global Compact. They have argued that accountability mechanisms are not in place and have attacked the lack of clear criteria for dealing with companies found to be in breach of the ten principles (Utting and Zammit 2006, 2008; Richeter 2003;).

Companies involved in the Global Compact believe their business experience can be the solution to human rights and related poverty issues. The Coca Cola Company offers a clear example of the business-political role of multinationals in partnerships by declaring that businesses can play a key role in achieving the MDGs, thanks to their 'winning formula' of 'business success in Africa' (Coca Cola 2008). Coca Cola's actions include: creation of 'more jobs, more prosperity, more entrepreneurship and skills and, ultimately, more sustainable communities'. Together with the Harvard CSR⁸ Initiative and the International Finance Corporation, the Coca-Cola Company has been working in Tanzania to 'study how to enhance the model to create more jobs, provide additional skills training and drive entrepreneurship and prosperity in local communities' (Coca Cola 2008).

Preliminary observations indicate how international organisations, governments and NGOs have developed a fascination with business working style, strongly believing that companies

⁷ Organization of the High-level Plenary Meeting of the sixty-fifth session of the General Assembly on the UN Millennium Declaration, General Assembly, Resolution 64/184, UN Doc. A/RES/64/184, 5 February 2010.

⁸ Corporate Social Responsibility.

can offer the recipe to address a lack of compliance with human rights norms and related poverty issues. In fact, companies' business skills are considered necessary to addressing poverty and relevant human rights issues such as the poor standards related to child labour in cocoa production (Zammit 2003; Annan 1998; Oxfam 2008).⁹

This new way of looking at business sees its origins with the establishment of the Global Compact, where the UN Secretary General, Kofi Annan declared: *'Let us choose to unite the power of markets with the authority of universal ideals. Let us choose to reconcile the creative forces of private entrepreneurship with the needs of the disadvantaged and the requirements of future generations'* (Annan 1998). Later, in 2007, the UK Prime Minister, Gordon Brown, and Ban-Ki Moon, UN Secretary General, issued the 'Millennium Development Goals Call to Action' which invited companies to use their expertise and skills to achieve the MDGs, increase job opportunities and improve supply chains (Oxfam 2008; Murphy and Clapp 2008).

Over the last decade a number of PPPs have been created to address issues of children's rights and poverty throughout supply chains and to implement companies' codes of conduct (which have no legal implications in case of non compliance) (Arthurs 2006; Teklé 2010). Codes of conduct have been described as being 'awfully slippery', not legally required nor legally enforceable (Klein 2000). Codes of conduct date back to the XVII century, but they have become broadly adopted in the era of globalisation in response to civil society and media pressures (Arthurs 2002).

These codes have arisen against a background of global outsourcing networks where suppliers are located in different countries with different labour and human rights standards (Barrientos et al. 2008; Guardian 2008). For example, the Nestlé Supplier Code and the Kraft Corporate Responsibility Expectations for Direct Suppliers, state that all suppliers are required not to use child labour (see Nestlé and Kraft codes of conduct).¹⁰

PPPs have played an important role in ensuring that these codes are upheld and that child labour, and particularly worst forms of child labour are removed from supply chains. Some examples of these partnerships include the International Cocoa Initiative, Eliminating Child

⁹ Personal communication with employees of two NGOs.

¹⁰ Nestlé Supplier Code <http://www.nestle.com/asset-library/documents/library/documents/suppliers/supplier-code-english.pdf>; Kraft (now Mondelez International) Code of Conduct <http://www.mondelezinternational.com/deliciousworld/compliance-integrity/index.aspx>

Labour in Tobacco-growing (ECLT Foundation), the Mars Partnership for African Cocoa Communities of Tomorrow (iMPACT) program, the Ethical Trading Initiative (which deals with cotton growing, flower cultivation, trade, carpentry, and garment sectors), the World Cocoa Foundation, the Source Trust and the Cadbury Cocoa Partnership.¹¹

Chocolate and cocoa companies which source from farmers in West Africa are, however, still accused of exploiting children, not because they directly hire them, but because they fail to monitor the use of children in their supply chains (Tabacek 2010). Civil society organisations and the US government have been among the strongest supporters of companies' involvement in cocoa partnerships with the ultimate goal being to address the prevalence of child labour in cocoa growing areas – see later the '10 Campaign'¹² and the American initiative to combat child labour resulting in the Harkin-Engel protocol -.

This research comprises four main chapters. The first chapter is dedicated to exploring the triggers behind the emergence of partnerships and the debate on human rights and partnerships. This chapter presents the factors that initiated the adoption of partnerships aimed at tackling the use of child labour in cocoa supply chains. It then moves forward and explores how multinationals have become political players and protagonists in the advancement of children's rights through the means of partnerships. I will also use this opportunity to introduce all major cocoa partnerships operating against child labour in Ghana.

Much of the existing literature on labour rights, human rights and partnerships argues that partnerships are dominated by multinational power. Advocates of this argument claim that codes of conduct are prevailing over legally binding international instruments. According to this view, the vast economic power of multinationals may ultimately lead towards a process

¹¹ International Cocoa Initiative (<http://www.cocoainitiative.org/>); Eliminating Child Labour in Tobacco-growing (<http://www.eclt.org/>); iMPACT (<http://www.marshealthyliving.com/principles-action>), Ethical Trading Initiative (<http://www.ethicaltrade.org/>); Cadbury Cocoa Partnership (http://trade.ec.europa.eu/doclib/docs/2008/march/tradoc_138097.pdf); Source Trust (www.sourcetrust.org); the World Cocoa Foundation (www.worldcocoafoundation.org).

¹² 'The 10 Campaign is a joint activity of a number of civil society organisations around the world, including STOP THE TRAFFIK (United Kingdom, the Netherlands, Belgium, Australia, Canada), the International Labor Rights Forum (United States of America), Südwind Research Institute (Germany), World Vision (Australia), the Berne Declaration (Switzerland), Stop Child Labour – School is the best place to work (the Netherlands, Czech Republic, Italy, Denmark), Confédération Syndicale Burkinabé (Burkina Faso), Fairfood International, FNV Bondgenoten (Netherlands), as well as various individuals with extensive experience in sustainable cocoa' (10 Campaign 2011:19).

of privatisation of labour rights where governments, workers and trade unions would as a result lose most of their power (Arthurs 2001, 2006; Ashman 2001; Blainpain 2000; Craig et al. 2006; Gallin 2000; Utting 2005).

These claims, however, refer primarily to economic power, ultimately neglecting other dimensions of power, such as the ideological and political power that different players can exert (i.e. governments, civil society, international organisations, companies etc.). At this point I want to stress that power here is not to be considered as property which one can use it at will (Lukes 2005).

Power implies different 'forms of domination and subordination and asymmetrical balance of forces which operate wherever and whenever social relations exist' (Garland 1990:138). As power operates through individuals, I want to understand how these power relations shape their vehicles' decisions (employees or representatives of civil society, public organisations such as governments and international organisations, and businesses) when promoting human rights, especially in relation to children's rights in employment. I will do so by examining power and its different dimensions economic, political and ideological, as suggested by Poggi (2001). Thus, my main research question to be answered is:

What are the power dynamics within partnerships and their effects on the protection of children from dangerous labour practices in Africa?

The second chapter presents the research methodology used to investigate partnerships in Africa.

The third chapter focuses on the legal aspect of this analysis. It analyses international and Ghanaian legislation on child labour and the causes behind legal inefficiency in Africa when it comes to the protection of child rights. This chapter will begin by presenting the history of Ghana since this is closely related to cocoa production and child rights. I will then consider the reasons why child labour legislation is not effective in certain cases and the challenges faced by the government of Ghana in achieving legal compliance.

I will argue that legal enforcement is weak as result of two factors: the transplant of a foreign legal system and the existence of poverty. As poverty is considered by all interviewees of this research to be one of the major causes of poor legal efficiency and enforcement, I intend to assess the exogenous and endogenous causes of poverty, including structural adjustment

programmes, unfavourable trading practices, tax holidays,¹³ tax evasion, tax discounts and leakages, as well as corruption. Projects developed by partnerships in fact always provide solutions designed to tackle poverty, yet they neglect some important exogenous and endogenous causes of poverty which are mentioned above; some of them cannot be discussed in PPPs either to preserve trust and collaboration between different members or because certain problems go beyond the ray of action of partnerships.

The fourth chapter goes further by presenting the solution offered by partnerships regarding the advancement of child rights – hence the discussion will focus on efficiency and enforcement. I will use a power analysis to assist my understanding of the inner dynamics between civil society, and public and private players involved in cocoa partnerships in Ghana. As PPPs implement programs that directly influence children exposed to hazardous labour conditions in cocoa, this chapter follows the ways in which partnerships' decisions shape the advancement of their rights and the protection of children from dangerous employment. I intend to illustrate how certain power dynamics influence the way cocoa PPPs operate in their work against child labour to promote legal compliance.

¹³ 'Some businesses enjoy tax holidays or exemption periods. During the period of exemption the incomes are not taxable until the period is over', Ghana Revenue Authority:
http://www.gra.gov.gh/docs/info/tax_holiday.pdf

CHAPTER 1

COCOA PARTNERSHIPS AND THEIR COMMITMENT TO CHILDREN'S RIGHTS

Cocoa Public Private Partnerships - also known as PPPs - have emerged as a consequence of pressure exerted by both civil society, public and business actors (Ashman 2001:1108; Utting 2005; Ryan 2011). PPPs have come to play a significant role in the advancement of child rights, as well as relevant public policy and poverty alleviation strategies. The core argument in favour of the use of partnerships comes from recognition on the part of individual parties that they lack a complete skill set when it comes to tackling the complexities involved in protecting human rights in the commercial context (Emery and Tris 1973; Selsky 1991; Selsky and Parker 2005).

I intend to use Utting's paradigm to explore the emergence of cocoa partnerships and their commitment to child rights in employment in Ghana (Utting 2005). Utting identifies two pressures that led towards a prominence of partnerships - he categorises these as pressures from *below* and *above*. Pressures from below comprise campaigns and boycotts, and these have long-term impacts on customers and employees of the targeted company. Pressures from above include business lobbying and governmental promotion of partnerships. I intend to follow this pattern; however I will go deeper in my scrutinisation of both forms of pressure and explore how power and child rights advancement are perceived in partnerships by existing literature.

PRESSURES FROM BELOW

Pressures from below (such as campaigns and boycotts¹⁴ organised by NGOs and pressure groups) have played a key role in the creation of partnerships to address issues surrounding the use of child labour in the cocoa sector of Ghana.

Campaigns are successful when child labour exists in an exporting country, when the product is highly desired by consumers and when campaigns are organised in countries where the

¹⁴ Defined by the Oxford dictionary as the refusal 'to buy or handle (goods) as a punishment or protest'.

product is imported – as is the case regarding the cocoa industry, for example (Hepple 1997). In the US, only in June 2013 the Children’s Act for Responsible Employment (CARE Act), HR 3564 was reintroduced and the Congress refused to vote for it (Stop Child Labour; National Consumers League).¹⁵ However, ‘(t)he children of farm owners, working on their parents’ farms, will continue to be exempted from US child labor law even if the CARE Act is enacted’ (Stop Child Labor). Moreover, the US has not signed up the UN Convention on the Rights of the Child. This represents a great paradox, however, as the very country that is unwilling to protect children’s rights in its own domestic agricultural sector and did not sign the UN Convention on the Rights of the Child, is at the head of a campaign to eradicate child labour in cocoa farming abroad (see the campaign run by Senator Harkin and Congressman Engel, presented below).

Customer organisations and NGOs resort to campaigns and boycotts when trying to protect human rights violation linked to business operations. Boycotts carried out by customers have proven effective and successful in many instances (Harrison et al. 2005; Murtagh and Lukehart 2001; Smith 1990). One lobbyist from the cocoa industry reported that ‘they live in fear of the headline which could lead to the boycott’ (Ryan 2011:47). Popular boycotts have an impact on the targeted companies’ employees and the negative images surrounding a company linger for a long time both in consumers’ and employees’ minds (Harrison et al. 2005). Many people believe that to implement a successful boycott, sales need to be reduced considerably. However a campaign is considered successful by NGOs or consumers activists if it manages to reduce company sales between 2% and 5% - and sales can be reduced by 5% if the campaign is highly structured (Harrison et al. 2005). In some cases the threat of boycotts is sufficient for a company to make changes in their business strategy (Harrison et al. 2005).

Customers tend to adopt two types of behaviour: some of them focus their purchasing strategies on price, whereas an increasing number of customers are willing to pay a premium to buy fair trade products which indicate respect for human rights and the environment (Barrientos et al. 2008). For example, the market of ‘high-quality’ chocolate products is increasing by an average of 23% per year (Barrientos et al. 2008). As a result, manufacturers and processors have changed their strategies to meet market demand. In the cocoa and

¹⁵ Stop Child Labour <http://stopchildlabor.org/?p=3466>; National Consumers League <http://www.nclnet.org/worker-rights/82-child-labor/792-long-awaited-protection-for-child-ag-workers-offered-by-care-act>

chocolate industry for example, most industrial processors are employing a fair trade strategy: Cadbury and Nestlé display the FAIRTRADE Mark (Fairtrade Foundation 2009, Wallop 2009), over the last decade Mars joined forces with the Rainforest Alliance (Rainforest Alliance website);¹⁶ and Nestlé, Cargill and Ecom Agroindustrial joined the fair-trade certification with the NGO called UTZ Certified (UTZ website).¹⁷

At the beginning of 2000 a number of campaigns and journal articles reported the dangerous conditions in which children worked in Western African cocoa farms (Antislavery International 2004; IITA 2002; Woods and Blawett 2000). Critics were moved against the worst forms of child labour and all those activities which interfere with school attendance and which put children's health at risk. Calls to boycott companies accused of exploiting children quickly followed (CBS News 2009).

When farming cocoa, children perform numerous activities which endanger their health and safety. Research performed by Tulane University reported that 61-73% of children interviewed carried water for spraying, 50-75% of them were involved in weeding, 84-89% were also active in pod gathering and heaping, 58-65% in bean scooping and 50-74% in carting fermented beans (ICI 2009; Tulane University 2009). Children in the 13-14 and 15-17 age groups were also particularly involved in pod plucking, the drying of beans and the carting of dry beans for sale (ICI 2008). Researchers also reported cases of children being trafficked from neighbouring countries to work in cocoa growing areas (Antislavery International 2004; BBC 2011; Ryan 2011; Tulane University 2009).

In 2001 Anti-Slavery International sent video footage reporting cases of child labour in the cocoa industry to the US Department of Labour (Ryan 2011). Under international pressure and requests from the leaders of the movement to eradicate child labour, American Senator Tom Harkin and Congress Representative Eliot Engel, and representatives of the cocoa and chocolate industry signed the Harkin-Engel Protocol in September 2001. Representatives agreed to take responsibility for addressing the worst forms of child labour in their cocoa supply chains and to comply by 2005 with the ILO Convention 182 for the eradication of the

¹⁶ Rainforest Alliance <http://www.rainforest-alliance.org/>

¹⁷ Cadbury <https://www.cadbury.com.au/about-cadbury/fairtrade.aspx>; Mars <http://cocoasustainability.com/2011/09/mars-chocolate-announces-fairtrade-international-agreement/>; Nestlé <http://www.nestlecocoaplan.com/>; Cargill <http://www.cargillcocoachocolate.com/sustainable-cocoa/the-cargill-cocoa-promise/>; Ecom Agroindustrial <http://www.ecomtrading.com/en/our-products/cocoa/cocoa-brands-and-factories.html>; UTZ <https://www.utzcertified.org/>

worst forms of child labour. The deadline has been extended three times first to 2008, then to 2010 and now to 2020 (CNN 2011; CLCCG 2011).

As a result of pressure from Senator Harkin and Congressman Engel, the International Cocoa Initiative was created to bring together and partner trade unions, NGOs and businesses with the goal of sustaining 'efforts to eliminate child labour and forced labour' from cocoa supply chains (ICI website).

It is important to note that the governments of Ghana and Ivory Coast – the two greatest beneficiaries of cocoa partnership projects - do not sit on this board nor in many others.¹⁸ As later I will explain in greater detail, the African governments do not sit in the majority of cocoa partnerships, allegedly to guarantee the independency of partnership boards. In the case of the International Cocoa Initiative, different parties meet and discuss programme content and funding contributions; programmes are then submitted to the local districts¹⁹ in Ghana.

Over the last decade, partnerships have proliferated in Ghana.²⁰ Some examples of partnerships include those between UNDP and Cadbury; the now closed cocoa partnership between civil society, the government of Ghana and the industries which was called the International Cocoa Verification Board; Cadbury and NGOs such as Voluntary Service Overseas (known as VSO), World Vision and Care International; Cargill and Care International; the World Cocoa Foundation (which partner a number of companies and civil society organisations); the International Cocoa Initiative; the Source Trust, a not-for-profit organisation which was set up by Armajaro and works with companies such as Lindt, Ferrero, Hershey's, Camille Bloch, Toms.

Under the Harkin-Engel Protocol, representatives agreed to take responsibility for addressing the worst forms of child labour in their cocoa supply chains and to comply by 2005 with the ILO Convention 182 for the eradication of the worst forms of child labour. Following the first deadline in 2005, a human rights organisation (International Rights Advocates) filed a suit against Nestlé, Archer Daniels Midland (ADM) and Cargill in the Federal District Court in Los Angeles. The companies were accused of being involved in trafficking, forced labour and torture of children in cocoa farms (International Labour Rights Forum 2005). In 2009 Tulane

¹⁸ Personal communication with directors at PPP1, PPP3. ChokoComp 2, 4 & 5.

¹⁹ Local districts are local state administrators, given Ghana has a federal system of governance.

²⁰ Personal communication with directors at NGO8 and senior officials at PubOrg 1 & 3.

University²¹ declared that only 3% of the children in the cocoa sector benefited from the companies' interventions and that, despite concerted efforts, the majority of children at risk of the worst forms of child labour remained unreached by the remediation activities that had been implemented by the International Cocoa Initiative (Tulane Third Annual Report 2009; Tulane Fourth Annual Report 2010).

Tulane University added that businesses were not giving enough money to the International Cocoa Initiative to tackle the problem of child labour and that little had been achieved in Ghana and Ivory Coast (CNN 2011). It added that while the companies' turnovers between 2001 and 2011 were estimated to be \$1 trillion, between 2001 and 2008 these companies had spent only \$5.5 million to solve the problem of child labour (CNN 2011). Ultimately Tulane suggested that they should spend at least US \$75 million in order to credibly attempt to solve the problem (CNN 2011).

The cocoa industry reported in 2009 that US \$75 million had been invested over the previous nine years to improve children's lives in cocoa areas (10 Campaign 2011). This value extends to all cocoa PPPs, therefore it is not limited to the donation made towards the International Cocoa Initiative.

The 10 Campaign argues that most of this money has been spent on improving cocoa production, which ultimately benefits the cocoa and chocolate industries (10 Campaign 2011). This is no secret, as companies and NGOs involved in partnerships openly declare that increasing household income is the most effective way to lift farmers out of poverty. Household incomes are ultimately increased by teaching agricultural techniques and business skills to farmers. According to this logic, these skills will enable farmers to increase their outputs, receive higher premiums and ultimately earn higher profits.²²

But companies, through partnerships, have also played a role in building schools, training teachers, providing bicycles to allow children to reach distant schools, and providing sanitation services to farmers' villages (see ECHOES programme from World Cocoa Foundation, the Source Trust, the partnership between Cadbury and Care International).

²¹ Tulane University is financed by the by the U.S. Department of Labor to oversee Public and Private Initiatives to Eliminate the Worst Forms of Child Labor in the Cocoa Sector in Cote d'Ivoire and Ghana (Tulane University <http://www.childlabor-payson.org/>).

²² Personal communication with senior officials at NGOα & γ and ChokoComp 1, 2, 3, & 5.

In answer to the critics and the documented poor results of cocoa partnerships, a new Framework of Action to Support the Implementation of the Harkin-Engle Protocol ('Framework') was signed by the governments of Ghana and Ivory Coast, the US Department of Labor and the chocolate and cocoa industry in September 2010. The signing was witnessed by Senator Harkin and Congressman Engel and the International Labour Organisation (ILO). The Framework's goal is to reduce child labour in Ghana and Ivory Coast by 70% by 2020.

Within this Framework the different players committed to join stakeholders' efforts to provide remediation services for those children removed from the worst forms of child labour; these include: education and vocational training; livelihood²³ services for households of children who live in cocoa growing communities; implementation of a reliable monitoring system and maintaining respect for core labour standards (CLCCG 2011).

With the launch of the Framework a switch in strategy took place. The Child Labor Cocoa Coordinating Group (CLCCG) was created to partner the governments of Ghana and Ivory Coast, the industry and the US Department of Labor. The CLCCG plays a strategic role in approving and coordinating projects launched by NGOs, the International Cocoa Initiative and businesses. Thus, this system should avoid duplication, by monitoring and assessing the progress of programs (CLCCG 2011).

Under the Framework, the industry committed to give US \$7 million, US \$2 of which would be directed towards the ILO-IPEC project which aims to create a Child Labour Monitoring System in Ghana.²⁴ The US Department of Labor committed US \$10 million to fund the same ILO-IPEC programme. While the overall projects are monitored by the CLCCG to make sure that each project is in line with the broader country objectives, the ILO-IPEC will work with the Ghanaian Government to develop the Ghana Child Labor Monitoring System (GCLMS) which will monitor child labour across sectors (i.e. fishing, farming, mining etc...).

'The Child Labour Unit²⁵ will design and assist MMDAs²⁶ to put in place community-run surveillance arrangements such as the prevention-oriented child labour monitoring systems piloted in

²³ 'A **livelihood** comprises the capabilities, assets (including both material and social resources) and activities required for a means of living. A livelihood is sustainable when it can cope with and recover from stress and shocks and maintain or enhance its capabilities and assets both now and in the future, while not undermining the natural resource base'. (Chambers and Conway, 1991)

²⁴ This is a child labour monitoring system run by communities themselves and supervised the government. It will be presented in greater detail in the following chapters.

²⁵ Within the Ministry of Employment.

²⁶ Metropolitan/Municipal/District Assemblies.

some 25 districts under the ILO/IPEC WACAP and Time-Bound Programme (TBP) Support Project. These arrangements will include procedures for referring out-of-school children to schools, and rapid response mechanisms for aiding children in special need, including, in particular, victims of the unconditional WFCL²⁷ (Ghana National Plan of Action for the Elimination of Child Labour 2009 - 2015).

The National Program for the Elimination of Worst Forms of Child Labour in Cocoa (NPECLC), a division of the Ministry of Employment and Social Affairs in Ghana, will be in charge of monitoring child labour in cocoa farms. It receives funding from cocoa partnerships members and the government of Ghana.

Typically cocoa campaigns and boycotts tend to focus on the role that companies should play - see the 10 Campaign - or the price that cocoa farmers should be paid, downplaying the role of service provision by the government of Ghana, which is justified with the excuse of being a poor country with limited resources (10 Campaign 2011).

While civil society praises Ghana for the efforts made to eradicate worst forms of child labour (10 Campaign),²⁸ its financial contribution remains limited.²⁹ Ghana's government continues to be described as being active in its fight against the worst forms of child labour (10 Campaign 2011).³⁰ However, questions regarding loss in tax revenues and corruption are not addressed by partnerships despite these two factors having a great impact on government revenue levels in Ghana.³¹ There is a strong need to look at tax exemptions - in the cocoa sector, but also in the oil and gold sectors, tax leakages and corruption in the country. In fact these determine loss in revenues and lack of funding that should be reinvested in the community to meet citizens' needs and promote child rights. During an interview with a representative from a global chocolate producer the topic was brought up:

'Why doesn't anybody ask, what happened to the 40% or 50% of taxes that were taken from the cocoa farmers, every year for the last 50 years, resulting in billions of dollars being removed from the sector, but nothing coming back in. And how do you reverse that? I think you reverse it by putting policy in place that says, if we are going to have 20% tax on the cocoa being sold, what do we do with

²⁷ Worst forms of child labour.

²⁸ Personal communication with senior officials at NGOα, γ & ζ.

²⁹ Personal communication with members of ChokoComp 4 and Armajaro.

³⁰ Interviews with civil society organisations, international organisations and business representatives all shared this view.

³¹ Personal communication with senior officials at PubOrg 1 & 3.

that 20%? How do we get it back into the community? If you go into the community and empower the community to put together action plans and they say, this community needs to address social issues with better health centres, water supply, more teachers; in most models in governance today that becomes the responsibility of the government and that isn't happening. And the question is: why hasn't that happening'. (Director at ChokoComp 4)

In response to my question: 'Has anybody ever asked this question during partnership meetings'? This same representative replied:

'People pose it in private, but if you try to raise this question people say: well but we are not here to look back. And I understand that, but who is going to address these policy needs? Who is going to put in place the system? If you do the maths...let's say that Ghana produce another million tonnes of cocoa, they are easily going to get US \$ 2000 a tonne for that cocoa. That comes up to 2 billion dollars, if they take 10% of that, 200 millions. Where does that 200 millions go? Why do we hear from the government of Ghana that they cannot even get 1 million dollars together to address child labour monitoring. These are some big questions, which are not discussed. The industry gets hit up all the time, from both governments. Why doesn't industry give 5 million there and here to do work? My question is why doesn't this money come from the government sector? That is the biggest disconnect I see'.

The above statement clearly indicates how partnerships do not address or discuss issues such as tax efficiency and corruption that, even if not directly related, do have an impact on good public policy and governance. Good public policy and governance are key to the advancement of child rights as they ensure legal efficiency and enforcement. However, partnerships' mandates do not include the need to look at certain aspects of the context in which projects are implemented; this specifically includes raising questions about the taxation system or loss of resources through corruption.

The issue of taxes and corruption will be discussed later in this thesis. It is interesting, however, to bear in mind that the topic of taxes and corruption is never addressed by partnerships, whose major concerns remain tackling the immediate outcomes of poverty: poor education, lack of infrastructure and training, child support etc. Yet taxes and corruption affect the pool of financial resources available to a country's government to provide public services which are fundamental for the enforcement of child rights and human rights in general (Cotterrell 1984; Green et al. 2004).

Chocolate and cocoa companies found NGOs to be ideal partners to assist with their strategies promoting human rights standards along their supply chains.³² In fact the first decade of cocoa partnerships is characterised by projects run at the level of communities (which is a strategy typical of NGOs), without a clear national strategy that looks at child labour across different business sectors.³³ Despite companies and NGOs implementing projects which aim to promote compliance with human rights standards via partnering together, these efforts will be undermined by a lack of government capacity to enforce the law and address root causes of child labour.³⁴ A public agency reported:

'Industries can find themselves still doing exhausting social auditing programmes and still have pervasive child labour (CL) in cocoa. Unless capacity is built in the state to eliminate CL, and the complexity of CL is taken into account and the root causes of CL are addressed, industry are going to find themselves with the same type of problems twenty years from now'. (Senior official at PubOrg 2)

Arthurs (2006) raises his concerns about the limited role governments appear to be playing in terms of labour rights promotion, especially in regard to budget cuts on labour inspections and promotion of labour rights. He argues that meanwhile, powerful multinationals have gained a greater role in promoting self regulatory measures - codes of conduct. However, at the time he was writing he neglected the role that multinationals were playing with other actors (public and civil society) in promoting enforcement and efficiency, which is far more than mere adoption of codes of conduct as it also included the adoption of corporate social responsibility initiatives.

Corporate social responsibility initiatives are channelled and implemented through partnerships to ensure compliance with both codes of conduct and human rights standards.³⁵ Members of trade unions interviewed as part of this research, concur with Arthurs' view on privatisation of labour rights, and explain that legal supervisory mechanisms and the provision of public services is strongly influenced by private actors – note trade unions usually refer to private actors as being multinationals not to NGOs.

³² Personal communication with senior officials at ChokoComp 2, 3, 4 & 5.

³³ The first 'National Plan of Action for the elimination of the worst forms of child labour' was launched only in 2009; Personal communication with senior official at PubOrg 2.

³⁴ Personal communication with senior official at PubOrg 2.

³⁵ Personal communication with the director at PPP3.

Codes of conduct operate internally within companies and externally with other players (Arthurs 2002). First, they provide internal regulations for workers. Second, they cosmeticize conflict by mimicking 'the legislation and process of law to ultimately convince investors, clients, civil society and governments of their commitment to human rights (Arthurs 2002:476, 2006; Arthurs et al. 2009; Mouffe 2005). Since companies promulgate their own benchmarks and self-imposed law through codes of conduct, Arthurs (2002) argues that state law has become less relevant in bringing about responsible corporate behaviour. Regulation mechanisms are often weak and only few codes of conduct foresee mechanisms of supervision and independent monitoring (Arthurs 2006). Blainpain et al. (2004:5) go further arguing that 'local decision makers are peddling in empty air and bowing their heads for the multinational winds hoping that the transnational goods will be favourable to them. There is no real countervailing power to international decision economic-making'.

Arthurs and Blainpain's arguments regarding codes of conduct need to be updated as while they were writing about codes of conduct in the early 2000, public private partnerships were strongly establishing themselves. Partnerships do not only look at ways to implement codes of conduct, but as cocoa partnerships in particular have demonstrated, they have also come to play a role in legal advancement itself. From 2001 until 2010 most partnerships have resulted in NGOs together with companies playing a predominant role in human rights advancement, extending the number of 'private actors' involved in labour rights promotion.

Multinationals seek out PPPs to implement their corporate social responsibility and favour inclusive strategies to mitigate reputational risks (Pedersen and Andersen 2006; Roberts 2003; Ryan 2011). NGOs have themselves received pressures to move towards partnerships.

Businesses and governments have called on NGOs to abandon the adoption of antagonistic behaviour in relation to corporations and to collaborate with them instead (Buzzard 1999; Waddell and Brown 1997). These calls have progressively encouraged NGOs to adopt a more collaborative approach. Meanwhile, NGOs seek out inclusive strategies to mitigate the decline in public money. Financial pressure, a consequence of reduced financial support from statutory bodies, has led many NGOs turn to alternative funding streams (Ashman 2001). A promoter of one partnership reported that PPPs are the only solution at this stage:

'The alternative is that companies will only take care of their supply chain and do not engage in the bigger picture, this would not solve child labour. Civil society is going to end up underfinanced and in a way powerless to do anything other than shout'.

The need of funding has pushed UN agencies and NGOs closer to companies seeking out partners. Many NGOs, frustrated with government inaction and by the fall in public funding available, have decided to open to 'the other'. They searched for business collaboration, ultimately accepting the business discourse of 'ethics' (Fleming and Jones 2013). A similar discourse is valid for the international organisations, where statutory funding is becoming less available. For example, the UK Department for International Development (DFID) withdrew funding from UN-HABITAT, ILO, UNIDO and UNISDR (DFID 2011)³⁶ and in 2011 the WHO had to cut 300 job posts due to budget deficiencies (Celton 2011).

PRESSURE FROM ABOVE

Cocoa partnerships have also developed as a result of globalisation and other pressures coming from above, with businesses and governments playing a major role in shaping the discourse surrounding partnerships. In terms of the current global regime, globalisation is the driving force behind changes within supply chains and employment relations (Teklé 2010) and represents another trigger from the top.

The globalised market is described as being dominated by multinationals, whose networks stretch beyond national borders, identities and national interests (Arthurs 1996, 2002, 2006; Barrientos 2007; Blanpain and Colucci 2004; Craig et al. 2006; Hepple 1997; Scherer and Palazzo 2010; Utting 2001, 2009). Multinationals have the power to decide where to move their investments, thus they have the power to dictate the conditions under which these will be made (Hepple 1997). However companies can still see their licences withdrawn by governments when their behaviour is not considered satisfactory – this has already occurred in Ghana on several occasions.³⁷

Globalisation has shaped new supply chains, as many companies source through suppliers who are geographically distant – see cocoa supply chains (Barrientos 2007; Conway and Heynen 2006). On the international trade platform, Africa remains dependent upon the export of raw material and commodities, which are sourced by companies based in economically strong countries (Collier 2002).

³⁷ Personal communication with one consultant in the mining sector and the director at PPP2 .

As a consequence of this mode of production, where global supply chains are composed of nodes distant from one other (Teklé 2010), labour rights activists and NGOs have shifted their attention toward the challenges this shift poses to labour rights protection.

New global supply chains and the fragmentation of workforces, which follow externalisation arrangements, represent major obstacles for trade unions who were traditionally based territorially (Gallin 2000). In fact, the 'conventional forms of collective bargaining and actions have been undermined, since the fragmentation of the workforce has made the identification of collective interests and identities difficult to achieve' (Teklé 2010:20).

Since the 1940s different employment contracts have been introduced, the nature of production has changed and companies have attempted to cut the costs of labour through the decentralisation of their activities and operations (Barrientos 2007; Conway and Heynen 2006; Jerkins 2002; Teklé 2010). As a result, companies have begun to subcontract and outsource some parts of their production.

'The phenomenon challenges the socio-economic pillars and the legal categories on which traditional labour law is based [...]. Productive decentralisation defies the validity of the assumption that employment-related relationships are necessary bilateral. Such arrangements [...] raise the issue of how to determine responsibility for working conditions and terms of employment'. (Teklé 2010:21)

According to Teklé, risks and responsibilities related to the employment relationship have, together with production, been transferred to a third party.

In a context where legal enforcement remains weak and global supply chains make legal enforcement of labour rights particularly challenging, public, private and civil society organisations have favoured the use of partnerships to enforce human rights and more specifically child rights. Moreover, partnerships are conducive to minimum risks of penalty (Cotterrell 1984) by reducing the conflict resulting in lawsuits, boycotts and name and shame campaigns against companies.

Companies and also African governments have played a major role in promoting partnerships. They see partnerships as being a good alternative to penalties and boycotts, as this form of collaboration is considered to be less costly (Cotterrell 1984). Managing reputational risks caused by campaigns and lawsuits like the one led by International Rights Advocates against Nestlé, ADM and Cargill for their use of child labour in 2005, is clearly

costly. Ultimately companies and governments prefer conciliatory measures over ‘criminal’ labels which stigmatise them when accused of human rights violations (Simpson 2002). As in the case of Ghana, governments prefer the use of partnerships over boycotts and legal actions which imply higher costs (Kettis and Pot 2010). Conciliatory measures also benefit NGOs since additional funding is made available to them for the purpose of projects implementation.³⁸

The business sector has lobbied against the imposition of penalties against companies which do not comply with international standards (Blanpain et al. 2004; Utting and Clapp 2009). Companies have put forward alternative instruments to strong international regulation mechanisms, such as corporate codes (Arthurs 2006). Moreover, as the case of cocoa partnerships demonstrate, partnerships offer an alternative way to sanctions by favouring collaborations between different players, which are guided by international law on child rights. In the cocoa sector, according to a recent report by CNN (2011), the implementation of the Harkin-Engel Protocol, and subsequent creation of the International Cocoa Initiative, was a response to the business sector’s refusal to accept idea of imposing a ‘child labour/slave free certification’. Again, media and civil society neglected the fact that the government of Ghana was also strongly against the imposition of such certification.³⁹

Since the early 2000, the international community, through international organisations and governments, invited and supported companies to design their own codes of conduct and to take part in cocoa partnerships (Blanpain 2000; Jerkins et al. 2002; Utting 2005). Governments and international organisations have encouraged multinationals to get involved in the advancement of human rights, partnerships and the funding of public policy - such as building schools and promoting livelihoods.⁴⁰

The debate on corporate social responsibility and partnerships has diverted the attention of the public and NGOs away from the role that governments should play in developing effective public policy, the protection of human rights and regarding the effective use of tax revenue (see 10 Campaign’s statements for example).

³⁸ Personal communication with the director at PPP1.

³⁹ Personal communication with the manager at PubOrg 3 and the sustainability advisor at ChokoComp 2.

⁴⁰ Personal communications with members of TradeU3 & 4 and a senior official at PubOrg 1.

Campaigns led by NGOs tend to attribute great political role to multinationals, who are considered to be the most powerful players in the international market (see 10 Campaign; Utting 2005). Multinationals are indeed power players in the global economy. Yet the role that the government should play in developing public policy to ensure legal efficiency, is neglected by campaigns as well as the role played by the government in condoning the strengthening of corporate power through tax incentives and exemptions (Zammit 2003).

Western and African governments have lacked the political will to promote legally binding international agreements for multinationals (Arthurs 2006). They have favoured the proliferation of codes of conduct and PPPs such as the Global Compact, the Children's Rights and Business Principles and soft law instruments like the OECD Guidelines for Multinationals and the ILO Tripartite Declaration of Principles on Multinational Enterprises and Social Policy (Blainpain et al. 2004).

Companies have lobbied for the promotion of soft law legal measures and have gone through profound organisational reorganisation processes which see business as being at the forefront of the partnerships and corporate social responsibility debate (Auvergnon 2006; Fleming and Jones 2013; Utting 2005).

Over the last two decades, a great number of multinationals went through significant reorganisation processes by adopting corporate social responsibility, advertising, sponsorships, networking, partnerships and in some instances by creating business-interest-NGOs or foundations such as the Bill and Melinda Gates Foundation and The World Cocoa Foundation (Edwards 2013; Roberts 2004; Utting 2005; Fleming and Jones 2013). These foundations are mushrooming and they have come to play a strong role in discussing and implementing strategies to fight poverty in Africa, advancing child rights and promoting relevant policy through partnerships with NGOs (Edwards 2013).

Zammit (2003) suggests that the call of the UN to join forces with the "private sector" in order to reach the MDGs, turned into mere engagement with big Northern companies. In Zammit's words (2003:XX)

'Partnerships therefore need to be assessed not only in terms of whether the specified immediate partnership goals or outputs are achieved, but also in terms of other, possibly unintended, outcomes that have development implications. Thus partnerships to undertake development-related tasks in countries of the South (such

as “providing cheap medicines to save lives”) also provide opportunities for corporate image enhancement, vehicles for market penetration by providing already powerful enterprises with preferential access to developing country markets, and other means of increasing competitive advantage and policy influence, for example, through privileged access to developing country governments’.

In an attempt to pursue a social vision of the corporation’s role in society, most advocates of corporate social responsibility uphold the so called New Corporate Citizenship Theory, which foresees the engagement of business in the administration of political, civil and legal rights (Fleming and Jones 2013). In this research chocolate manufacturers and cocoa processors differ in their opinions regarding the role of multinationals in public policy and human rights advancement.⁴¹ Two major chocolate companies argued that they do have to play a role in public policy and human rights, whereas other companies underlined their role as economic actors and noted that governments must play a stronger role in public policy and legal implementation.

Fleming and Jones (2013) see corporate social responsibility as another face of capital accumulation and explain that although some companies try to combine ethics and the pursuit of profit, there is nonetheless a strong tension between the two. This is not because employees are ‘bad people’, but simply because they follow the business code which guides the corporation (Fleming and Jones 2013). Fleming and Jones (2013) warn how corporate social responsibility - hence also partnerships which implement such policies - can become ‘a vehicle for corporatising society through eco-innovation, human resource management and ethical branding gaining powerful leverage over activities that might have once been performed outside of business’ (Fleming and Jones 2013: 23).

The tension between ethics and the pursuit of profit makes it impossible for companies to promote public interest (Hopkins 2003). This remains difficult, as this research will demonstrate, also when human rights promotion and commercial interests converge like in the cocoa sector.⁴²

A commercial motive also lies behind business involvement and which puts multinationals at the forefront of the partnerships debate.

⁴¹ Personal communications with senior management officers in all companies interviewed.

⁴² Personal communications with the director at PPP1.

'[T]here is a convergence between human rights and commercial interests and this is why companies are taking labour rights on board, not just as PR. There are opportunities around this convergence'. (Director at PPP1)

In fact since 2006, both Ivory Coast and Ghana have seen their cocoa production fall dramatically, prompting companies to become concerned with the future of cocoa supply (Ryan 2011). Cocoa farms are often 20 or 30 years old and production has been decreasing year after year, raising concerns amongst chocolate firms about a future increase in prices (Blas 2010).

This is why current projects in cocoa farms in Ghana have a twofold objective: to improve cocoa production by increasing farmers' incomes and to improve farmers' living conditions – which especially includes eradicating the worst forms of child labour. The ultimate goal is to have a skilled and motivated workforce in cocoa farming. Companies and NGOs play a great role in cocoa partnerships and their project activities are shaped to meet the abovementioned objectives.

NGOs have become the predominant partners of multinationals when partnerships are formed (Bäckstrand 2006). This shift was the result of a number of pressures coming from above.

First, the UN, through the Global Compact, called for 'collaborative behaviour', setting the stage for a change of mentality. Secondly, less funding has made partnerships the only way for NGOs to preserve their existence as international actors. These two points have been previously addressed.

But there is a third factor which has contributed to this phenomenon: the prevailing of economic rational ideology in the way that NGOs think and work (Wallace 2004; Zizek 2010, Fleming and Jones 2013).

Civil society is the sphere where intellectuals operate either in opposition to or in cooperation with those who exert either political or capital power (Van Rooy 2000). NGOs comprise the core members of civil society as they have managed to raise their international profile higher than any other member of civil society (Gallin 2000; Van Rooy 2000). Thus, civil society has become synonymous with voluntary and non-governmental organisations whose goal is to challenge state power, foment democratic ideas and remain autonomous from the state (Diamond 1994; Makau 1996; Van Rooy 2000; Williams 2008).

Civil society organisations have been described as not being interested in gaining political power; this is why political parties fall outside this particular definition (Diamond 1994; Van Rooy 2000). The traditional definition refers to organisations which involve 'citizens acting collectively in a public sphere to express their interests, passions, and ideas, exchange information, achieve mutual goals, make demands on the state and hold the state officials accountable' (Diamond 1994:5). Ultimately, civil society's goal should be to challenge the biggest power holders and to redistribute this power. However, with the rise of PPPs the role of some NGOs has undergone a profound change.

Despite these theoretical claims, NGOs have gained great power in the global order; they present themselves as not pursuing the specific interests of one group, but as being vested with the mandate to represent 'universal human interests' (Hardt and Negri 2001:313). Their mission to use their power to protect marginalised people and human rights is strengthened by a 'universal moral code' through which NGOs justify their actions (Hardt and Negri 2001:313). With the roll back and shrinking of the state, the role of civil society, which has traditionally been strategic in terms of challenging state power, has extended to control corporate power also (Harrison and Negri. 2005; Williams 2008).

With the rise of partnerships, some NGOs are encouraged to abandon their belligerent behaviour towards businesses in favour of a more cooperative and 'professional' attitude (Ashman 2001; Wallace 2004). Today most NGOs have become highly professionalised having incorporated business codes and tools into their daily work, ultimately making them suitable candidates for working with businesses (Wallace 2004). All companies interviewed at some point referred to these NGOs as 'service providers' differentiating them from campaigning NGOs.

Some big NGOs have left behind campaigning activities which challenged the behaviour of corporations to meet the new 'demand' for their skills from companies. In the cocoa sector some NGOs play a key role in partnerships with businesses, these include: Care International, VSO, Free the Slaves, WAO Africa, Global March Against Child Labour, Winrock International and Education International. Some of these NGOs have attracted strong criticism for having transformed themselves into corporate service delivery organisations, ultimately offering internal operational assistance to corporations (Utting 2000; Murphy and Bendell 1999). In a

public interview Care International describes the moment in which they decided to promote strategic partnerships with a number of corporations:

'Care has worked with partners since the beginning. [...] we realised that corporations can do so much more than just philanthropic funding. [...] When Care went through the last strategic planning process five years ago we looked at what are our core strengths and how we can leverage and work together with other partners. [...] we realised that with the private sector [...] we were engaged with over 2000 companies [...] when I say engaged I mean some would write us a cheque and with some we would have a meaningful relations [...] We looked for those companies that were looking at the developing world as important to their business, not just only from a CSR and philanthropic perspective [...] The power came when we leverage our network with Cargill on the ground'. (CSIS 2006)

This statement clearly marks a change with the past attitude adopted by NGOs and highlights the development of a new sub-group of NGOs – the service provider agencies.

In the case of cocoa partnerships NGOs can receive donations from businesses to perform social audits, assist vulnerable children, train teachers, deliver training to farmers and other social actors, in order to help transform the supply chain. For example, Solidaridad, a Dutch NGO committed to combating structural poverty and creating sustainable supply chains, works in partnership with the chocolate and cocoa industry to train farmers and make sure they receive fair trade certifications. Thus, the NGO acts as a service provider for major companies, but it is registered as an NGO. Note, as the director at ChokoComp 4 explained, the 'Fairtrade' label can ensure that cocoa is produced sustainably and that farmers get a fair price, but it cannot ensure that production is child labour free.

Cocoa partnerships see NGOs working together with companies to improve their supply chains, increase farmers' incomes through better farming practices, improve education and raise awareness regarding the risks of the worst forms of child labour. Sometimes NGOs perform tasks which are real services for which they are paid. The case of Solidaridad is only one example of an NGO performing services. Within the World Cocoa Foundation (a foundation through which the chocolate and cocoa industry implements its corporate social responsibility policy), training programmes are also performed by NGO partners. These organisations maintain the status of an NGO also meaning they are exempt from making tax payments by virtue of them 'helping people'.

The main concern raised by commentators on partnerships is that they bring forward the ideology that all goals can be achieved if different parties collaborate towards a common goal, although the present playground is dominated by multinationals with expanding economic and political roles (Dommen 2005; Utting and Clapp 2009) as well as effects on privatisation of human and labour rights (Arthurs 2006; Murphy and Bendell 1999).

However the power of other players – NGOs and public organisations, for example - is not addressed by these authors and my research aims to do so. At this stage I want to explain how multinationals and NGOs have come to play a stronger political role through the formation of partnerships.

THE ROLE OF MULTINATIONALS AND NGOS IN PROMOTING LABOUR RIGHTS AND THEIR POLITICISATION

The magazine New Internationalist⁴³ demonstrated how multinationals are embroiled in politics and how this phenomenon has direct effects on government policies. Multinationals are clearly powerful economic players; however I here claim that NGOs and international organisations (highly involved in partnerships) have also attributed a political role to companies. They did so by asking them to take part in the advancement of human rights through partnerships, and by inviting them to sit at the High-level Plenary Meeting of the MDG.⁴⁴

NGOs and international organisations argue that corporations must work in partnerships because they have skills and power to alleviate poverty and promote human rights (Oxfam 2008; Utting and Clapp 2008).⁴⁵ They argue that the power of sovereign states is declining and that governmental corruption diverts the interest of public institutions away from what citizens really need (Baviskar 2001; Gallin 2000; Ghosh 2009; Zaidi 1999). This logic further reinforces the political role of corporations.

⁴³ The best influence money can buy - the 10 Worst Corporate Lobbyists - See more at: <http://newint.org/features/2011/01/01/10-worst-corporate-lobbyists/#sthash.hfNQ2CEf.dpuf>

⁴⁴ Organization of the High-level Plenary Meeting of the sixty-fifth session of the General Assembly on the UN Millennium Declaration, General Assembly, Resolution 64/184, UN Doc. A/RES/64/184, 5 February 2010

⁴⁵ Read for example Save the Children <http://www.savethechildren.org.uk/about-us/who-we-work-with/corporate-partnerships>; Care International <http://www.care.org/about/partnerships/corporate-partners>; VSO <http://www.vso.org.uk/about/working-in-partnership/corporate-partnerships>

Despite the Guiding Principles on Business and Human Rights recognising the role of the state in protecting against human rights abuses,⁴⁶ (Ruggie 2011), multinationals have been attributed responsibilities which traditionally civil society and international organisations attributed to governments (Ashman 2001; Crane 2005; Zimmeri 2009).

As governments have lacked the political will to promote legally binding international agreements for multinationals, corporations have become political interlocutors and institutions entitled to produce non-binding legal requirements and voluntary human and environmental rights projects that affect society (Arthurs 2006; Fleming and Jones 2013).

Through PPPs companies play an increasingly political role. They do so by intervening in public policy and legal implementation (Fleming and Jones 2013; Utting 2005). Few authors promote this new political role of global multinationals, in the belief that governments have ultimately lost most of their power. They therefore believe that in this era, multinationals and NGOs are better placed when it comes to the advancement of human rights.

Scherer and Palazzo (2010) add that the traditional distinction between governments and businesses, respectively as political and economic actors, does not hold true in present society. In their view, the progressive shrinking of the state's role has been compensated by expanding roles of civil society, international organisations and businesses. These ultimately compensate for the vacuum left in the provision of public goods and promotion of human rights (Ungpakorn 2004).

According to Scherer and Palazzo (2010), governments have failed in regulating business misconduct which goes beyond state borders and this is why companies show a strong commitment to fill in the regulatory vacuum left by the state. According to these authors, the future of democracy lies in the recognition of the political role of companies (Scherer and Palazzo 2010).

Consequently, Scherer and Palazzo (2010) suggested that companies should be recognised as political actors and collaborate with civil society and public actors. This is indeed happening via the formation of partnerships where different organisations decide to collaborate in order to address specific issues surrounding human rights and poverty.

⁴⁶ 'States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication' (I, A, 1)

Similarly, Matten and Crane talk about corporate citizenship as ‘the role of the corporation in administering citizenship rights for individuals’ (2010:173). They believe that corporations can be the medium for promoting citizenship rights, which is usually considered to fall within the domain of the state (Crane 2005; Zimmerli 2009). Ultimately, the above authors place corporations and NGOs in the public sphere.

Consequently companies have come to play a role in advancing and implementing human rights and are not limiting themselves to merely promoting these, as Matten and Crane (2007, 2010) described.

Due to the political role ascribed to companies, NGOs and international organisations which used to partner mainly with governments now must engage with businesses to discuss issues related to the protection of fundamental rights.⁴⁷ Moreover NGOs and international organisations are continuously striving for funding and they have faced a progressive shrinking in statutory funding,⁴⁸ hence having to ultimately turn to the business sector for their economic survival.

The increasing presence of the private sector in public service delivery, which followed the reforms of the 1980s in Africa, is the other factor which makes multinationals the key actors to engage with. In many African countries, the reforms imposed by the World Bank (WB) and International Monetary Fund (IMF) have placed in private hands services which were traditionally administered by the government, such as those related to health, drug distribution and water (Marriott 2009; Salina 2008).

Since the 1980s the WB and the IMF have devised macroeconomic policies, which go under the name of the Washington Consensus, that do not consider local exigencies and cultural and economic contexts (Conway and Heynen 2006). These measures were successfully implemented in less developed countries and included: fiscal discipline, tax reform, privatisation, deregulation, trade liberalisation and liberalisation of inward investments and the reduction of public expenditure (Park and Vetterlein 2010). In countries such as Ghana, the private usage sector by poor people goes beyond 60% (WB Group 2007).

As result of all of these factors, enterprises have come to be considered more than mere economic institutions, but also political and cultural interlocutors. For all the above reasons,

⁴⁷ Personal communication with the manager at PubOrg 1 and the senior officer at ChokoComp 1.

⁴⁸ Personal communication with the director at PPP1.

these political-business institutions have become the privileged interlocutors of many NGOs and international organisations.

Some companies, and for some time also international organisations, have preferred to engage with NGOs instead of trade unions (Blainpain 2000).⁴⁹ Over the last decade, cocoa companies have found NGOs to be the most suitable type of interlocutor, while NGOs and international organisations believe that trade unions have become weaker, more marginal players when it comes to handling labour rights (Blainpain 2000; Utting 2005).⁵⁰

'This (informal sector) is the area where most workers are exploited. The role of trade unions is vaguely important in relation to this, a counterbalance in weight of the power of business. But I do not think it⁵¹ is flexible and dynamic enough to be providing that weight given the nature of globalised economy'. (Director at NGOy)

'Most of the time they have not been able to provide added value to their members. In Africa, trade unions have no money and they are big on speeches and very small on actions. They do not look at other workers which are emerging while other is disappearing. The trade unions are not recognising that it is not absence of the state the problem, but that the state is equally subject to the market this days, they did not framed their vision of what society and market is becoming'. (Manager at PubOrg1)

Although there are examples of trade unions being willing to register workers in non-traditional forms of employment, they have for a long time underestimated the linkages between a globalised economy, modes of production and labour rights (Gallin 2000). This, together with externalisation processes, atypical work arrangements (i.e. part-time, casual, fixed term, self-employed, home workers etc.) and a new web of employment relationships across countries, has resulted in a progressive decline in the number of members of trade unions (Gallin 2000; Raday 2004; Teklé 2010). The slow response of trade unions to the challenges posed by globalisation has hindered their position. Trade unions have participated in designing codes of conduct, yet NGOs have become the privileged partners of businesses, as the first decade of cocoa partnerships has demonstrated (Blainpain 2000; Craig et al. 2006; Gallin 2000; Utting 2005).

⁴⁹ Personal communication with members of TradeU 3 & 4.

⁵⁰ Personal communication with senior officials at five companies, directors at NGO α & γ, manager at PubOrg1.

⁵¹ Trade union.

The role of corporations and NGOs as political actors finds its highest expression in the proliferation of partnerships. Partnerships are the result of a tendency for companies to be legitimised by society, NGOs and public actors through their voluntary actions which benefit the environment and society (Murphy and Clapp 2008). Through the formation of partnerships, companies are able to improve their image and also legitimise their political position in society, while NGOs continue affirming their role as political representative of human interests. This point will become clearer when looking at the case study of this research, cocoa partnerships.

COCOA PARTNERSHIPS

I now intend to examine the development of cocoa partnerships from the beginning in early 2000, until early 2013.

Cocoa partnerships aim to advance human rights by tackling poverty and alleviating human rights abuses which occur in relation to business, in this case, child labour. Members of partnerships argue that they want to tackle the root causes of poverty, ensure legal compliance with international and national legislation and protect children from dangerous working practices which would prevent them from going to school.

In 2012 - 2013, partnerships operating in Ghana went a step further by contributing to the establishment of a child labour monitoring system already used by the International Labour Organisation in other African countries. This is a community based labour inspection mechanism whereby public, private and civil society actors involved in partnerships, believe it will ensure close monitoring of children's rights in Ghana's cocoa farms takes place.

Partnership strategies also aim to tackle child labour by lifting farmers out of poverty. They do this by helping farmers achieve higher incomes by increasing their yields.⁵² They also advocate for the African government to invest more in child rights promotion. Advocacy strategies have achieved results - for the first time - the government of Ghana has introduced in the national budget a line dedicated to the elimination of child labour.⁵³

⁵² Personal communication with senior officers at all chocolate and cocoa companies interviewed, directors at NGO α & ε and PPP1 & 2.

⁵³ Personal communication with a member of TradeU2 and senior officer at PubOrg 3.

There are three reasons why I selected cocoa partnerships as a case study. Firstly, partnerships in the cocoa sector have existed for more than a decade, thus they offer a wealth of material, ideas, lessons learned, positive cases and mistakes upon which to reflect. The long establishment of cocoa partnerships provides the experience necessary to reflect on their strategies and the effects of their organisational structure. Secondly, cocoa firms and chocolate manufacturers have been the object of name and shame campaigns for almost a decade and they have taken proactive action to implement their codes of conduct and ensure the implementation of both the national and international legal frameworks concerning child rights. They have done so by engaging in partnerships. Thirdly, the issue of child rights in relation to child labour is particularly interesting. There are peculiar legal, cultural, and economic challenges which the advancement of child rights in Ghana faces.

The advancement of child rights becomes particularly challenging when it comes to child labour in agriculture, especially cocoa farming. First, child rights cannot be protected by simply monitoring the cocoa supply chain. Multiple actions are required to address child labour and these must take into consideration: poverty, culturally accepted practices, infrastructure (i.e. building roads that can facilitate access to schools and clinics) and education as well as monitoring of the supply chain are all central. Second, child rights in cocoa farming can be promoted through a combination of good national policy (including infrastructure and services relevant to children) and the commitment of multiple actors. As I will explain in chapter three, tackling child labour requires multiple actions across a range of different, yet correlated issues. This is why civil society, public and private organisations see partnerships as being an effective vehicle through which to tackle the problem.⁵⁴

There are two reasons behind my choice of using a case study to analyse the present trend in partnerships. First, detailed case studies afford the possibility of understanding how partnerships work and the trends they might follow (Braithwaite 1985; Fisse and Braithwaite 1983; Levi 1984; Waldman 1978). Secondly, by looking into a specific case study I will be able to answer my research questions in a pragmatic manner and appreciate how partnership power dynamics shape the process of human rights advancement for children in employment. Ultimately, the use of a case study will contribute to the existing literature on public-private partnerships and labour rights advancement.

⁵⁴ Personal communication with directors and a manager at NGOα & γ, ChokoComp 1, 2, 3, 4 & 5

COCOA AND THE PRESENCE OF PARTNERSHIPS IN GHANA

The cocoa tree prospers in warm countries between 10°N and 10°S of the equator (UNCTAD 2008). In the mid 1800s chocolate consumptions augmented and the international demand for chocolate increased. Therefore cocoa needed to be produced in greater quantities in order to satisfy such demands. It was during this period that cocoa beans were first imported from South America to West Africa (ICCO website).⁵⁵ West African countries on the coast offered the perfect climate for cocoa to flourish (ICCO).

West Africa's soil was found to be incredibly fertile for cocoa. The region receives a generous amount of rainfall during the year and cocoa plants benefit from the shadow of taller trees. These characteristics offer particularly suitable conditions for large cocoa yields (Blas 2010). The trees flower twice per year and there are two harvest seasons: one between October and March and the other between May and August (UNCTAD 2008). Cocoa is mainly grown as a cash crop for earning export revenues and only small quantities are consumed locally (UNCTAD 2009).

Between 1910 and 1914 Ghana became the world's leading cocoa producer (Kolavalli and Vigneri 2011). Ivory Coast and Ghana remain the two biggest chocolate producers today. Together they contribute to almost 60% of world cocoa production (ICCO). The export value of world cocoa bean production for 2009-2010 was estimated at around US \$10 billion and West Africa as a whole contributes to almost 70% of this (UNCTAD 2010).

Intensive cocoa production is not a traditional practice, but as noted earlier it dates back to the beginning of the 1890s. Today some 800000 farmers in Ghana produce 20% of the world cocoa production (Blas 2010; ICCO 2012; Tulane 2009).

From the early stages it became clear that cocoa farming was well suited to the traditional African farming model based on smallholdings (Anti-Slavery International 2004). During the early stages of the development of the cocoa sector in West Africa both local chiefs and colonial powers resorted to practices of forced labour and slavery on cocoa estates (Anti-Slavery International 2004).

⁵⁵ The International Cocoa Organisation www.icco.org.

TABLE 1 PRODUCTION OF COCOA BEANS (THOUSAND TONNES 2010-2011)

	2008/2009	Relative market share	2009/2010	Relative market share	2010/2011	Relative market share
Africa	2516	70%	2483	68.4%	3180	74.8%
Cameroon	224	6.2%	205	5.6%	230	5.4%
Ivory Coast	1223	34%	1242	34%	1511	35.5%
<i>Ghana</i>	662	18%	632	17%	1025	24.1%
Nigeria	250	6.9%	235	6.4%	240	5.6%
Others	157	4.3%	168	4.6%	175	4.1%
America	478	13%	517	14.2%	540	12.7%
Asia & Oceania	598	16.6%	632	17.4%	530	12.5%
World Total	3593	100%	3631	100%	4250	100%

DATA SOURCE, ICCO WEBSITE WWW.ICCO.ORG

Cocoa and gold exports remain critical for the economy of Ghana, yet other sectors (retail, gas, oil and telecommunications) have become increasingly strong (Africa Practice 2012). Over 2011 and 2012 cocoa output reached one million tonnes and the sector promises to maintain a growing output. But according to some analysts, falling cocoa prices indicate a modest growth of this sector in the short and medium term, whereas other sectors (mentioned above) continue to gain territory at a faster pace (Africa Practice 2012, ICCO Average Prices; The Africa Report 2012).

Despite the high production of yam and cassava for consumption, cocoa production still remains the main source of income for many Ghanaian farmers (Ryan 2011). Cocoa farming is extremely labour intensive and large numbers of labourers are needed during the harvest season to collect the pods, break them open and take out the beans which are then left to ferment and dry in the sun (Ryan 2011).

Between 2008 and 2012 the Mills government made some efforts to promote employment in Ghana by attracting investments in cocoa processing, yet farming remains the main economic activity (NPECLC 2008; Ryan 2011). In fact, grinding facilities do not offer many jobs as they do not require a high number of workers (Cappelle 2009; NPECLC 2008; Ryan 2011).

Over the last decade the International Cocoa Initiative and Tulane University have conducted research on the worst forms of child labour which exist within the cocoa industry. A 2009 study conducted by Tulane University showed that the majority of children in Ghana work in

agricultural households and that 50% work in cocoa fields for an average of 10 hours a week (Tulane 2009). Some children handle agrochemicals and cutlasses, clear the land, burn fields and carry heavy loads (NPECLC 2008; Ryan 2011; Tulane 2009). These activities are considered hazardous and fall under the definition of the worst forms of child labour as defined in the ILO Conv. 182 (see chapter one).

During the first years of the 21st century, cocoa sustainability became a major concern as cocoa production is itself at stake (Kettis and Pot 2010). Since 2006, both Ivory Coast and Ghana registered a progressive decline in cocoa production while global demand increased. Cocoa farms are 20 or 30 years old and production has been decreasing year after year raising concerns amongst chocolate firms about a future increase in prices (Blas 2010). However, because of collaboration between the Ghana Cocoa Board (COCOBOD)⁵⁶ and business activities through partnerships with NGOs, crops have become more productive and this tendency is reversing (Kolavalli and Vigneri 2011; ICCO and WCF websites). Increasing cocoa output is in line with the strategy of partnerships to lift farmers out of poverty by increasing income.

THE CURRENT SITUATION REGARDING COCOA PARTNERSHIPS IN GHANA

The cocoa industry has been heavily criticised by media (see CNN and BBC) and NGOs (see the 10 Campaign) for having failed to address child labour in cocoa farms. In reaction to these critics, in September 2010 the governments of Ghana, Ivory Coast, the US Department of Labor and the chocolate and cocoa industries agreed on the new Framework of Action to Support the Implementation of the Harkin-Engel Protocol.

The new Framework of Action to Support the Implementation of the Harkin-Engel Protocol (Appendix 2) (henceforth ‘the Framework’) set the following goal for the industries and the governments of the USA, Ghana and Ivory Coast:

‘By 2020, the worst forms of child labor as defined by ILO Convention 182 in the cocoa sectors of Côte d’Ivoire and Ghana will be reduced by 70 percent in aggregate through joint efforts by key stakeholders to provide and support remediation services for

⁵⁶ The COCOBOD is a state-controlled marketing system which licences traders and regulates the cocoa market (Meredith 2006). COCOBOD purchases all cocoa produced in Ghana and then sells it to licensed companies (Barrientos et al. 2008).

children removed from the worst forms of child labor, including education and vocational training, protective measures to address issues of occupational safety and health related to cocoa production, and livelihood services for the households of children in cocoa growing communities; the establishment and implementation of a credible and transparent sector-wide monitoring system across cocoa growing regions in the two countries; and the promotion of respect for core labor standards'. (CLCCG 2012:2)

The Framework signalled a clear change in strategy in fact the governments of Ghana and Ivory Coast now sit on the board of one partnership – the Child Labor Cocoa Coordinating Group (CLCCG) whereas during the first decade he did not sit in partnership boards.

Three companies clearly outlined the need for bringing the governments on board; one public organisation explained how they planned to engage with the two African governments:

'When companies have a proposal that comes under the framework, we have a process of review and the different entities in the CLCCG [...] There is a process to review the projects, to provide comments and to share these with the CLCCG. The proposal flows through the hosting country first and then the CLCCG receives communication from the national steering committee in the country which reports whether they support the project, whether they have any comments'. (Public Organisation involved in CLCCG)

To date more than \$15 million has been committed to addressing child labour in cocoa farms and to setting up the child labour monitoring system. \$10 million was committed by the United States Department of Labor to withdraw children from hazardous employment conditions and to prevent their entry into such circumstances in the first place, as well as to provide education, occupational skills training and livelihood services to families and children working in cocoa farms in Ghana and Ivory Coast (CLCCG 2012). The US Department of Labor, the cocoa and chocolate industries and the government of Ghana are committed to the development and implementation of the child labour monitoring system.

The industry partnered with the ILO-IPEC with a private donation of \$2 million to strengthen the government's capacity to combat child labour, extending the community based child labour monitoring system as well as improving the role played by the tripartite national child labour steering committee (CLCCG 2012).

These partnerships under the CLCCG's umbrella have the following objectives: 1) expanding and refining the child labour monitoring systems in Ghana and Ivory Coast; 2) implementing

capacity building programs to guarantee the roll out of the child labour monitoring system at the national, district, and community levels; 3) supporting the National Steering Committees in their assessment, coordination and reporting activities regarding initiatives and interventions in the sector.

The NPECLC (agency branch of the Ministry of Employment) will be working with the ILO to implement the child labour monitoring system in cocoa farms. For this purpose they will also receive GHc 2 million (\$1 million) from COCOBOD. The cocoa and chocolate industries fund the World Cocoa Foundation in order to execute their projects on child labour and cocoa sustainability through NGOs which implement its activities.

Besides the above, companies implement their own projects through individual partnerships with NGOs. For example, Kraft formed the Cadbury Cocoa Partnership which aims to invest USD \$70 million over a ten year period. The project's goals are to increase government-backed projects, household incomes and cocoa yields. The project has achieved some results like building wells and community toilets, supporting 22 schools and two health clinics. Besides, 10000 households have received lanterns, 6500 school children aged 3-16 years have been supported economically as well as 100 schoolteachers and 23000 people in total (Mondelez International website). Additionally, the Hershey's company donated US \$600,000 to establish the technology to enable farmers to share information and also report cases of worst forms of child labour in cocoa farms to the government (CLCCG 2012).

TABLE 2 FUNDING WITHIN THE NEW FRAMEWORK OF ACTION

<p>International Chocolate and Cocoa Industry (committed):</p> <ul style="list-style-type: none"> ▪ Financial: <u>\$7 Million</u>, of which \$2 Million supports ILO Public-Private Partnership (PPP); further pledge to explore <u>additional \$3 Million</u> ▪ Support data collection and monitoring via CLMS (community & national level) ▪ Support <u>provision of remediation services</u> ▪ Provide sustainable livelihoods for households of children in cocoa growing communities ▪ Promote coordination with and participate in stakeholder consultations for USDOL-funded, ILO Cocoa Communities Project (CCP) ▪ Strive to ensure safe and responsible labor practices in supply chains <p>U.S. Department of Labor (DOL) committed:</p> <ul style="list-style-type: none"> ▪ \$10 million commitment to fund ILO-IPEC CCP ▪ Report on progress towards the goals of the Protocol and the Framework

- Work in partnership with Declaration financial partners and key stakeholders
- DOL also currently serves as Secretariat of the Child Labor Cocoa Coordinating Group (CLCCG)

The government of Ghana committed \$2.2 million

DATA SOURCE, CLCCG

The government of Ghana committed US \$2.2 million, \$900000 of which has been used to establish the child labour monitoring system. This money will be used to create a database, training materials and develop and validate an implementation plan, organise workshops and trainings as well as raise awareness about the Ghana Child Labour Monitoring Systems in 60 communities (CLCCG 2012).

Two companies complained that the NPECLC lamented insufficient funds to carry out the pilot of the child labour monitoring system in the 60 communities and that the only reason the project was able to be implemented was due to the US Department of Labor making additional funds available.

The child labour monitoring system in Ghana is a labour supervision method implemented at the community level by communities themselves:

‘The Community Child Protection Committees live in the communities, about eight/ten members. Amongst these groups, four or five were selected and trained as data collectors. They live in the communities and once every six months they collect information. We are integrating this in the local administration system. So we are not paying anybody to do these surveys, which would be expensive. So these are the people who live in the community’. (Manager at PubOrg 3)

The above public organisation is convinced that when donations come to an end from businesses and the US Department of Labor, the child labour monitoring system will continue working because it is ‘a community based effort’. This view has been questioned by managers at PubOrg1 & 2, NGO 8 and TradeU 2, which have pointed out that data collection in cocoa farms will not be carried out when payments become unavailable. One of these interviewees pointed out that this method failed already in other West African countries due to the very same reasons.

Nevertheless, the ILO, the US Department of Labor and especially the business sector believe this new strategy is the way forward for tackling the practice of child labour in cocoa farms.

The next ten year strategy is therefore moving in a different direction; however questions are being raised regarding the sustainability of results.

THE COCOA SUPPLY CHAIN AND COCOA PRICING

The cocoa supply chain is global and has different players at different stages; these players are located in different geographical areas. Within chocolate supply chains, farmers in Ghana and other Western African countries produce cocoa which is then sourced by foreign cocoa processors and chocolate producers - global multinationals with headquarters based in the USA and Europe (Ryan 2011; Barrientos et al. 2008).

These companies do not own the outsourcing, because cocoa farming is mainly the province of families run operations - small holders (Antislavery 2004; Bayer 2009; Cappelle 2009; ICI 2009; Ryan 2011; UNCTAD 2008). This is the main issue raised by industry players in relation to child labour, specifically by chocolate manufacturers, who present the challenges they face when supervising their supply chains:

'Even if a company like ours would purchase let's say, 20000 to 30000 tonnes of cocoa (of course we purchase more than that), we would be purchasing cocoa from that country. And if we use 30000 tonnes as a reference, you would be probably easily purchasing cocoa that was grown on 25000 farms. You are also purchasing cocoa from 25000 unknown farmers in terms of location and identity. It is difficult for us to try to audit our suppliers'. (Director at ChokoComp 4)

'Major manufacturers like Nestlè, Kkraft, Cadbury, Hershey's, we are all buying cocoa from Ghana and Ivory Coast, but none of us have an isolated or specific supply chain'. (Director at ChokoComp 1)

When looking at the global cocoa supply chain, power distribution must be analysed from two different angles.

Roberts (2003) offers one insight, arguing that traders and suppliers retain the greatest power as they can afford to ignore codes of conduct designed further up the supply chain – mainly in Europe and the USA where headquarters are based - where companies are more exposed to public opinion. As companies in Europe cannot do business without their suppliers, the latter would retain significant power (Roberts 2003). For this reason, over the last decade companies have invested a considerable amount of money on training farmers

with the goal of improving their incomes, the quality of their lives and ultimately, cocoa production. An increasing number of companies are moving towards fair trade practices and paying farmers premiums for their crops (Ryan 2011; Kettis and Pot 2010). Companies have realised that if the lives of farmers, their children and the youths more generally do not improve, the future of their own businesses will be endangered (Kettis and Pot 2010).

According to Jerkins et al. (2002) companies are in a position to control and manage production thanks to their economic power. According to this approach, the supply chain is a buyer driven commodity chain, where products are sourced from poor countries and where global buyers retain large amounts of power. Companies, according to Jerkins et al. (2002) have the power to decide whether to break or maintain a contract with a supplier, ultimately creating a relationship of dependency.

Within the cocoa supply chain there is a substantial power differential between cocoa farmers and companies (Rodney 2009; Ryan 2011). In fact, western companies are organised around 'lumps of capital' whereas farmers are organised around the 'sale of labour force' (Poggi 2001:127). These two aspects are linked by contractual arrangements, but their power differential lies at the root of farmers' poverty. For example, only 10% of chocolate manufacturers retain 43% of global sales and for every £1 chocolate bar, only £0.07 goes to the cocoa bean producers (Barrientos et al. 2008; Ryan 2011).

Ultimately, most of the profits lie with processing the cocoa beans, not the selling of the raw product to the manufacturers (Rodney 2009; Ryan 2011). The 2011-2012 International Cocoa Organization's predictions show that only 18% of cocoa is ground in Africa, 16% of which is ground in Ghana and Ivory Coast, whereas 40% is processed in Europe and 20% in America (ICCO 2012).

The grinding process is concentrated in the hands of ten companies; four of these hold more than 50% of the market share for consumer chocolate in Europe (Barrientos et al. 2008; Ryan 2011; UNCTAD 2008). In fact, recent mergers and acquisitions (i.e. Kraft with Cadbury, Barry with Callebaut), have increased market concentrations held by just a few companies, ultimately shifting the power differential. African countries, where these companies operate, come up against a number of challenges regarding the regulation of these mergers. Chocolate and cocoa companies are based outside Ghana and therefore they do not fall under the jurisdiction of producer countries (UNCTAD 2008).

Farmers have the power to decide the future of cocoa growing, which will ultimately affect companies which source cocoa from them. In fact, cocoa farms are declining in productivity. The average age of farmers is 55, they are poorly trained in sustainable farming techniques, their trees are old and they produce fewer cocoa pods compared to the past (Cappelle 2009). In addition, young generations are not drawn by the prospect of being cocoa farmers, because the lifestyle is very hard and pay is very low (Barrientos et al. 2008). Overall, the productivity of cocoa pods is declining, therefore the future productivity of cocoa and the future sustainability of businesses is at stake (Kettis and Pot 2010).

The Ghanaian COCOBOD, the cocoa marketing board controlled by the government, tries to mitigate these power imbalances by fixing the minimum price that farmers receive for the cocoa (Ryan 2011). It also deals with the procurement and transportation of cocoa from the farms to the buyers and provides farmers with training, pesticides and other inputs (Barrientos et al. 2008; Kolavalli and Vigneri 2011).

Cocoa production is mainly family run on small farms. Producers have little knowledge of the international market, scarce money available to reinvest in their crops and weak voices in terms of their ability to claim more rights or receive higher prices for their crops (Ryan 2011). In Ashanti regions and the Eastern regions of Ghana, farmers typically cultivate three or less acres of land; in Western North and Western South farms can reach up to ten or twenty acres (ICI 2008). Most of these farmers still remain scattered, despite consistent attempts to move towards a cooperative structure where farmers' interests could be better protected.⁵⁷

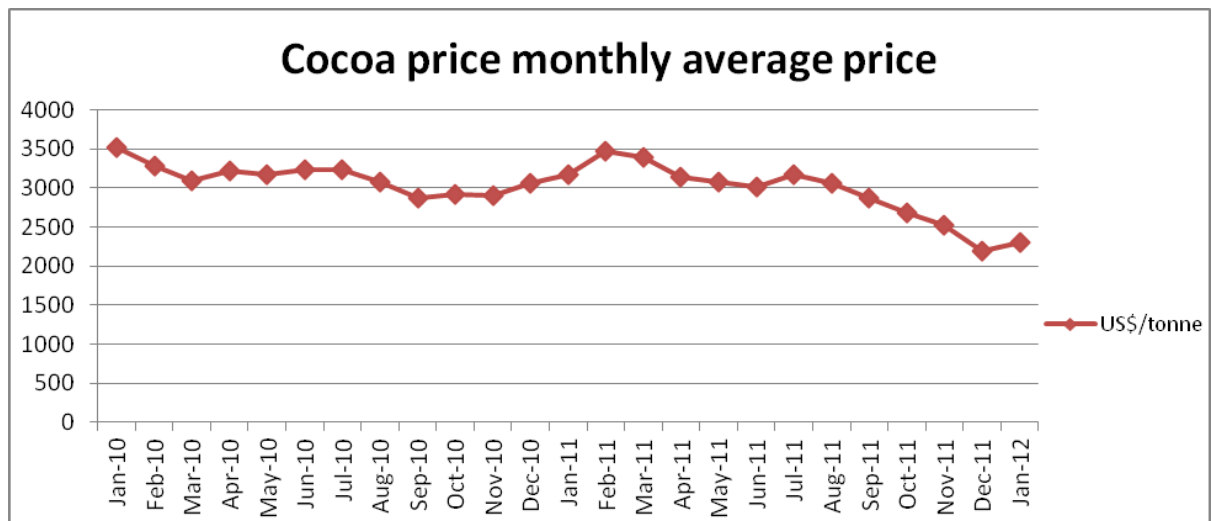
The price of cocoa follows the annual harvest cycle and cocoa harvested in September and October usually becomes available on the international market by January when the prices start to fall gradually (Chart Research).

‘Typically, March sees cocoa prices flat to slightly higher, as the market tends to work off excessive pessimism. April marks the end of the main crop harvest season and tends to see a final break in prices. With no harvest in May, prices tend to be sideways to strong, again working off ‘over sold’ conditions. June and July see weakness due to mid-crop harvest, while the heat of August tends to buy prices. September and October are traditionally the worst times of the year for cocoa prices, as the anticipation of the main crop

⁵⁷ Personal communication with the director at ChokoComp 4.

harvest weighs on prices, while November and December typically see rallies due to harvest delays and the threat of disease. Most of the major rallies in the price of cocoa can be attributed to harvest delays or plight and pestilence. The Cocoa plants are most vulnerable to these delays and the forces of nature in May, August, and at the end of the year (November and December)'. (Chart Research)

FIGURE 1 COCOA PRICE TREND



DATA SOURCE, ICCO MONTHLY AVERAGES OF DAILY PRICES, WWW.ICCO.ORG

In Ghana the COCOBOD establishes the price to be paid to farmers in order to protect them from price fluctuations (Ryan 2011; Barrientos et al. 2008). The price fixed by the COCOBOD is 76.04% of the Free on Board Price (FBP), this means that the COCOBOD withholds the difference (Ryan 2011). Therefore, farmers are essentially taxed indirectly. In 2011 the COCOBOD increased the cocoa price paid to farmers from GHc 3200 per tonne to GHc 3280 as part of a strategy to reduce the smuggling of cocoa to Ivory Coast, where farmers could get paid more. While this measure attempts to protect farmers by raising their pay, it also favours the smuggling of cocoa from Ivory Coast where companies can pay less for cocoa (this point will be further addressed later in the thesis).

Despite farmers receiving a higher price for their cocoa and bonuses for their cocoa production, their income remains inevitably lower when compared to the turnover of the cocoa and chocolate industries. Each farm family in Ghana owns a plot of around three or four hectares and cocoa bean production per hectare can, in optimal conditions, increase from 400Kg to one tonne (Barrientos et al. 2008; Responsible Cocoa 2012). If a farm produces the

maximum yield of cocoa, e.g. one tonne per hectare, and the farm is four hectares big, the farmers would receive GHc⁵⁸ 3280*(one tonne * four hectares)= GHc 13120.⁵⁹ In case of high quality and productivity, the farmer is also entitled to receiving a bonus of GHc 40 (US \$ 21) per tonne (MFEP 2012). Thus s/he could receive additional GHc 160 (US \$ 84.8) per tonne. Therefore, under the best production conditions, the average turnover of a farm per year can be GHc 13.280 (US \$ 6953).⁶⁰ One company representative I interviewed estimated that there are 600000 farms in Ghana. Assuming that this number is correct, overall, the farming community would earn US \$ 6953 * 600000 = US \$ 4 billion per year.

Considering that from 2001 to 2011 the global revenue of the cocoa business amounted to GHc 1 trillion (approximately US \$100 billion) per year, it is clear that the biggest profits lie at the stage of processing cocoa beans into chocolate, which is then sold in Europe (CNN 2011). Fair trade so far has worked to ensure farmers receive a fair price for their cocoa, but members of partnerships did not look at revenue losses at different stages of production caused, for example, by tax leakages, tax breaks or corruption at government level (Ryan 2011; UNCTAD 2008). These losses have a huge impact on farmers' lives and ultimately child rights. In fact these affect the level of funding available for social programmes, public services and other forms of support towards children (see chapter 3 for more information).

Since most profits lie in cocoa processing and chocolate production, Ghana's government has tried to attract more investments into this sector. The processing of cocoa into butter, cocoa powder and liquor is capital intensive due to the expensive machinery required and is currently concentrated in the hands of ten companies (Ryan 2011; UNCTAD 2008).

TABLE 3 MILLING CAPACITY BY COMPANY (GHANA)

Company	Milling capacity	Company	Milling capacity
Barry Callebaut	13%	Cadbury	3%
ADM	14%	Nestlé	3%
Cargill	14%	Ferrero	2%
Bloommer	6%	Cemai	2%
Petra Foods	5%	Kraft Food	2%

DATA SOURCE, UNCTAD 2008

⁵⁸ Ghanaian Cedis is the local currency in Ghana-

⁵⁹ GHc 3280 is the price of cocoa per tonee; one tonne is the maximum production in optimal conditions, four hectares is the surface of an average cocoa plot.

⁶⁰ Exchange rate as of 21/11/2012: 1GHS = 0,53USD; Data made available in the Budget Statement 2012, Ministry of Finance and Economic Planning (MFEP).

Without tax breaks, companies have little interest in processing cocoa in Ghana as they prefer remaining localised closer to their clients (Ryan 2011). This is why president Mills granted them tax incentives. Companies face a number of obstacles when grinding cocoa in West Africa. First, they fear relying on only one country as if the crop fails companies will need to source the cocoa inputs from elsewhere (Ryan 2011). Second, processors prefer being closer to markets in which there are a large number of chocolate consumers. Ghana is not such a market (Ryan 2011). Third, in order to reduce costs, cocoa processors and chocolate producers prefer to be geographically close.

Today it is more difficult to distinguish between cocoa processors and chocolate manufacturers as the majority of cocoa processors also produce industrial chocolate (covertures⁶¹) (UNCTAD 2008). Thus, two types of producers can be identified.

There are processors which produce industrial chocolate and sell most of it to chocolate manufacturers. For example, Barry Callebaut, Armajaro, Olam, ADM, Cargill and Bloomer (UNCTAD 2008). ADM and Cargill are traditionally involved in commodity trading but recently moved into covertures production (UNCTAD 2008).

Then there are the companies which produce industrial chocolate in Europe; these are Nestlé, Cadbury-Kraft, Hershey's, Mars, Ferrero and Cemoi (UNCTAD 2008). These companies produce covertures, but they have shown a trend in outsourcing their production so that they can concentrate on marketing and advertising aspects (Ryan 2011).

Cocoa processing is capital intensive, whereas cocoa production, which provides the most jobs in Ghana, is labour intensive. These factors, combined with the practice of farming smallholdings, lend themselves to the exposure of children to hazardous activities in cocoa farms.

CONCLUSION

In this chapter I have presented the economic, political and social pressures which have led to the proliferation of partnerships as well as relevant corporate social responsibility policies and codes of conduct.

⁶¹ Coverture is used by bakers and chocolate manufacturers; it is usually of high quality and not sold in retails.

Partnerships are seen by most parties as a feature of the new institutionalism associated with 'embedded liberalism'. They are concerned with developing and strengthening institutions that can minimise or mitigate the perverse effects of markets and economic liberalisation, and correct the imbalance between corporate rights and obligations that has occurred in the contemporary era of globalisation (Ruggie 2003).

Those who advocate supporting partnerships (including NGOs, international organisations, governments and companies in partnerships) see conflict between NGOs, public players and business as something of the past, which must be replaced by transparent communication and collaboration (Utting and Clapp 2009). Even traditional political conflict between right and left, is now replaced by a discourse which considers which actions are 'right and wrong' (Utting and Clapp 2009, Mouffe 2005). This phenomenon sees a prominence of morality and ethics over the debate on economic reforms and good governance. NGOs, strengthened by a universal moral code which they advance, play a key role in this process.

According to this logic, *collaboration* between the business sector, civil society and public actors can solve all problems related to human rights violations, poverty and other negative business impacts (Dommen 2005; Utting and Clapp 2009; Utting 2001). In this sense, partnerships are seen as a means 'to address organisational needs with the added benefit of addressing a social need, while preserving the organisational goal' (Selsky and Parker 2005:852). In this research I will look at this relationship between organisational needs and goals and social need in terms of human rights advancement and public policy.

Over the last sixty years, considerable thinking has been made regarding the best strategies to address or correct the negative social impacts of business enterprise. Whereas the role of government regulation was initially emphasised, more recently greater importance has been placed on companies' voluntary and self-regulatory initiatives (Utting 2001; Arthurs 2006; Hepple 1997).

As Brass and Koziell (1997:7) report, there is the feeling 'that public institutions and the Government are too busy in trying to compete in the global market economy to actually listen to the needs and ideas of individuals and communities. Many of them have tried conventional channels for change, but have got so fed up with the lack of response that they have decided to take matters into their own hands. And it is not just a question of having to wait too long for things to get better, increasing numbers of people are coming to the conclusion that their needs will never be addressed by those in power'.

This chapter has presented the ways multinationals, civil society and international organisations, have gained a greater political role through partnering and being involved in public engagement and strategic investments in public policy and human rights advancement. PPPs open the floor for civil society, public and private players to work closely and develop more familiar relationships.

Through this research I have considered how different players in partnerships tend to make their strategies converge and eventually learn to understand mutual positions. One example was offered to me when interviewing the director of NGOy which was very critical towards the cocoa and chocolate industry, in 2011. At a later stage (2013), once the organisation had been engaged in a cocoa partnership for quite some time, the same person published an article demonstrating a greater understanding of the difficulties of monitoring cocoa supply chains.

When developing more familiar relationships, according to Zammit (2003) and Ashman (2001), the interests of companies tend to prevail as they are the most powerful economic players. Zammit goes further arguing that multinationals shape public policy. Evidence generated by my research demonstrates otherwise.

Authors from both the labour rights and globalisation literature suggest that power is merely in corporate hands and that governments and civil society have lost a great deal of power over corporations, resulting in fewer regulations (Harrison et al. 2005; Arthurs 2000, 2006; Utting 2005).

All attempts to look at power so far have offered only a partial description of reality.

This research will demonstrate how power needs to be understood at different levels of analysis to identify clear dynamics and the effects on human rights advancement. While companies do retain strong economic power and play a role in shaping public policy, other organisations exert their own power as well, although on different dimensions. Throughout my thesis I will explore these dynamics.

Companies, NGOs and public players involved in partnerships do not merely act as promoters of human rights or policy influencers. They indeed play a role in enforcing the law, ultimately in promoting efficiency and enforcement (Cotterrell 1984). Partnerships act as regulatory bodies as they guarantee legal efficiency – by overseeing the provision of public services –

and enforcement - by checking legal compliance. I will provide greater details of these processes in chapter three.

The focus of partnerships remains on exogenous causes of poverty and how to compensate for uneven trading practices as well as power differences between industry and farmers. But no emphasis is put on transparent governance, fair taxation and the consequences of corruption, although problems related to these factors divert resources which would be hugely beneficial in addressing the issue of child labour. In addition, partnerships do not have the means to address local issues related to structural adjustment programmes imposed by the World Bank which affect the delivery of public service, tax collection and also favoured the idea of the state being a distrusted partner (Norbrook 2013b).

The following chapter will provide the methodology used to carry out this research. And chapter three will present a detailed analysis of the use of child labour in Ghanaian cocoa supply chains, and the major obstacles to eradicating the worst forms of child labour in Africa.

CHAPTER 2

STRATEGIES AND CHALLENGES OF RESEARCHING PARTNERSHIPS

In this chapter I detail my research methodology and the challenges of researching the role of elites in partnerships in Europe, USA and Ghana. I will present the research methodology I employed (desk and field research) through which I will also provide additional information about the cocoa partnerships which are object of this analysis. I will then go on to describe the challenges of conducting field research on partnerships and gaining access to all players involved in relevant organisations. I will pay particular attention to the challenges of accessing elites in relation to cocoa partnerships. I will provide further elements to define elites later on in this chapter, as the concept requires additional attention.

I will claim that there are three causes of poverty not addressed by cocoa partnerships, the effects of structural adjustment programmes, corruption and tax inefficiency. Partnerships can, for example, advocate for the government to make more public money available for education, health and legal advancement; they can also dispense public policy themselves through their project activities. But partnerships which operate on a specific supply chain have a limited span of action.

I will conclude the chapter by introducing the power analysis method I intend to use in my scrutiny of the power dynamics operating within partnerships.

During my research it became clear that partnerships do not create space to discuss the reasons why the government of Ghana declares it has so little financial resources available to invest in child labour prevention. Thus topics such as the loss of revenue due to tax incentives, the operation of a complex taxation system (which differs between sectors) and the prevalence of corruption are not addressed, despite the fact that these issues all divert resources away from areas where they are most needed. These include rural areas where additional infrastructures and social programmes would ensure the advancement of child rights. Cocoa partnerships neglect the abovementioned aspects; however their strategies and decisions have a direct impact on poverty alleviation and human rights promotion.

Certain power dynamics shape the way partnerships attempt to tackle poverty and promote legal advancement in human rights. These power dynamics clearly shaped the way partnerships operated during the first decade and have also influenced new, more recent strategies. For this reason my research looks at power dynamics between different members of cocoa partnerships.

Ashman (2001) argues that further analysis is necessary to understand the power dynamics operating within partnerships. In my research I want to explore them in greater detail. In fact, most of the literature on partnerships and human rights focuses attention on the 'why' and the 'who' of partnerships, but they neglect the 'how' (see Arthurs 2006; Ashman 2001; Murphy and Bendell 1999; Utting 2001, 2005, 2009; Zammit 2003).

I will be looking at 'how' partnerships operate, which will enhance the understanding of partnerships in terms of their legal regulatory function and the inner power dynamics which shape their strategy in achieving legal advancement (Braithwaite 1985; Levi 1984).

DESK AND FIELD RESEARCH

From the very beginning it became clear that limiting my reading to human rights and partnerships literature would not equip me with the tools to provide a thorough analysis. Partnerships are composed of different organisations which have their own organisational philosophies and ways of working. Companies belong to the sphere of economics; international organisations and governments belong to the public sphere; NGOs, trade unions and the media belong to the civil society sphere. Thus their organisational goals are different, as well as their work rhythms, strategies and cultures.

As such, I spent a considerable amount of time engaging with literature from these different spheres. My additional readings on ethical business, state-corporate crime, corporate social responsibility and civil society provided me with the analytical tools which enabled me to appreciate the complexity of a multifaceted phenomenon such as partnerships. These readings have challenged me and played an important role in testing my assumptions.

I monitored and read policy documents, reports, media publications and websites for three years. Caution was applied when reading organisations' policy documents since 'it is not [...] assumed that documents are neutral artefacts which independently report social reality, or

that analysis must be rooted in that nebulous concept, common sense reasoning' (May 2001:183). Nevertheless, these resources provide valuable information on organisational language, strategy, vision and goals.

These resources complement information gathered during field research as they offer the opportunity to look at the way different organisations perceive themselves and their role as a regulatory body in terms of public service provision and human rights advancement. These perceptions were then compared with the results gathered during interviews with relevant organisations.

Desk based research was not sufficient to provide all the necessary data required for this research; and it became quickly apparent that field research across several different countries was required. Interviews with major partnership players in the Switzerland, USA, Europe and Ghana provided greater insights into working practices and the philosophies of parties who work together on these kinds of platforms.

Field research was the best method to adopt in order to better understand how cocoa partnership members see themselves and their roles as public policy promoters and legal enforcement agents. Before moving into greater detail regarding organisations interviewed, it is important to provide an overview of the cocoa sector in Ghana and the parties which play a role in it.

Not all relevant parties were available for interviews; some organisations were insulated or their representatives were too busy. Noting the existence of interviews from other sources and taking advantage of their availability, I monitored media, policy documents, available audio-visual materials, mission statements and existing interviews and documentaries from authoritative sources such as Tulane University, CNN, and BBC.

Quantitative data on the cocoa and chocolate industries was also examined in order to calculate both the size of the market and the quantity of cocoa produced in Ghana. The Financial Times, World Bank (WB), Food and Agriculture Organisation (FAO), International Cocoa Organisation (ICCO) were important sources for this data.

The organisations relevant to the research are geographically distributed across the USA, Europe and Africa. Data was collected between October 2011 and August 2012.

Some interviewees questioned why the research did not commence in Ghana - to better understand the challenges of child labour in cocoa farms. The central concern of this thesis, however, is not the cultural and economic barriers facing the elimination of child labour. These issues have been well analysed in existing literature, as I will demonstrate in the next chapter. My interest lies in the operation of partnerships themselves and, although the case study is restricted to their operation in Ghana, all major actors are based in the USA and Europe and, accordingly, the decisions of these partnerships are taken in Western countries. My research was therefore first conducted in Europe and USA and then in Ghana. By interviewing, in the first instance, individuals based at the headquarters of companies and civil society actors involved in partnerships, I had the opportunity to understand the philosophies of these organisations at a level where many funding and partnership decisions are usually taken. This provided a broader international perspective before focusing on Ghana, where major cocoa corporations, international organisations and NGOs implement programmes designed together.

Fieldwork comprised of one-to-one interviews, focus groups and telephone interviews. Interviews were structured and the 'snowball' technique was employed to build the sample. I adopted qualitative research methods in order to observe people in their own territory, using their own language and terms (Kirk and Miller 1986). This is why I carried out interviews with companies, partnerships and public agencies in person in their own offices or over the phone. Only three interviews with civil society organisations (War on Want, Future Resource Development and the General Agriculture Workers Union) were conducted in a public space. On some other occasions the interviewee invited other colleagues to join the interview, ultimately turning individual interviews into focus groups. This was the case of the public agency National Programme for the Elimination of the Worst Forms of Child Labour based in Ghana, where I meant to interview the National Programme Manager (Dr Bani) but all 12 officers decided to join the interview and provide more and detailed information. This helped me check some of my ideas and also discover further thoughts and considerations. For instance, on one occasion when interviewing ChokoComp 5, the main respondent would

provide politically correct answers, whereas the other respondent would contribute by filling in the gaps with straightforward and useful pieces of information.

Building a network of contacts and waiting to gain access took a considerable amount of time. Although I began establishing contacts during the first year of my PhD, in some circumstances the process of accessing the right contact took up to eight months. For this reason the field research overall lasted one year. Accessing relevant individuals has certainly been the most difficult part of this research. One trade union in Ghana and a person in charge of running one of the partnerships explained that this is due to suspicion and fear of being reported to the press. Thus considerable time was spent with some organisations to arrange an interview.

All interviews with company representatives, but one, were recorded. When this Manager did not wish to be recorded, notes were taken. In transcribing the interviews my objective was to remain faithful to the expressions of participants without applying interpretations, of both my own, as well as those from existing literature. The interviews were later analysed in the terms of organisational culture and affiliation, combined with the historical, economic and political context of cocoa production.

When approaching individuals I always made initial contact via email, where I indicated my institutional affiliation, experience and the nature and goals of my research. Factors which assisted me in gaining access to interviewees included the participation of similar organisations, the possibility of maintaining anonymity by using the ethical research form approved by the university and being offered an opportunity to read the final research document. When this first attempt of contact failed, a second attempt was made either with a second email or via telephone. As such, final respondents were also chosen based on their convenience and availability. During my research I kept a field notes diary reporting my observations and especially the differences between conducting research in Europe compared with Ghana and over the phone with participants in the USA. These notes have been used to feed into the description of my field research which follows.

Four affiliation groups by which to classify interviewees were identified: civil society (NGOs and trade unions), the public (governments and international organisations) and business sectors, and headquarters of partnerships like the International Cocoa Initiative, the International Cocoa Verification Board launched by the NGO Verité (closed partnership) and World Cocoa Foundation. The World Cocoa Foundation is a business foundation, but a

registered NGO in Ghana. I intend to classify this organisation a partnership because it works with NGOs and public organisations in the implementation of their projects funded by companies.

In some cases classifying the appropriate affiliation group was not straightforward. Some organisations might be registered as NGOs or foundations but perform tasks that fall under the definition of business, because a service is exchanged for money - despite this being under the form of donation. For example Solidaridad is an NGO registered and based in the Netherlands with the goal of breaking the negative spiral of poverty experienced by cocoa farmers (see Solidaridad website).⁶² Solidaridad works in partnership with Cargill, Ecom, Mars, Ahold, Nestlé and UTZ to teach farmers how to increase their yields, earn higher incomes and ultimately produce sustainable cocoa yields and gain UTZ certification, which is a fair trade certificate (Solidaridad 2011). Another example of the difficulties I faced in correctly classifying organisations is offered by Care International which aims to support cocoa communities in protecting children from child labour and by promoting sustainable cocoa supply chains to support cocoa producers' and consumers' needs (Care International website).⁶³ Care International also clearly states that their goal is to 'maximise the positive impact the private sector has on poverty' (Care International website).

In the two instances presented above the boundaries between NGOs' and companies' goals become blurred. In other cases there are organisations such as the World Cocoa Foundation which are created by different companies to channel their corporate social responsibility (CSR) activities. The World Cocoa Foundation is a registered foundation in the USA and a registered NGO in Ghana, yet it works as a partnership with companies that implement their CSR programmes through NGOs partners.⁶⁴

One of the effects of partnerships, where boundaries are blurred and responsibilities overlap is – as the above examples demonstrate – the difficulty in correctly classifying organisations when conducting research of this nature.⁶⁵ For ease of reference, all organisations such as the World Cocoa Foundation and the International Cocoa Initiative (which comprise various private, public and civil society organisations working together) are considered partnerships.

⁶² Solidaridad <http://solidaridadnetwork.org/>

⁶³ Care International

http://www.careinternational.org.uk/attachments/104_CARE_WorkingWithBusiness%20FINAL.pdf

⁶⁴ Personal communication with the director at the World Cocoa Foundation.

⁶⁵ Personal communication with the director at NGO β.

Interviews were also conducted with organisations that do not work predominantly in Ghana. For example, Ecom works mostly in Ivory Coast, but its members' experience and insights on partnerships and their experiences in Ghana proved relevant. Nestlé reports not to have major CSR projects in Ghana, but it finance projects run in Ghana through the work of the World Cocoa Foundation, where it has a direct impact in Ghana, as well as in the recent partnerships with the ILO and Child Labor Cocoa Coordinating Group (CLCCG). The CLCCG is a partnership in which representatives of the United States Department of Labor (USDOL), the Government of Ivory Coast, the Government of Ghana, the International Chocolate and Cocoa Industry and Senator Tom Harkin and Representative Eliot Engel sit together working as a steering committee.

I also interviewed two NGOs that do not work in cocoa partnerships, but whose inputs have been invaluable because of the critique they offer to working in partnerships. One of these NGOs is War on Want, an international NGO that does not work in Ghana and which refuses to establish partnerships with business in order to maintain its independence. This organisation openly uses its well-known campaigns to call for businesses to comply with legislation and ultimately with human rights. The director of War on Want provided external information on partnerships which otherwise would have been impossible to obtain.

I also interviewed the director and a senior official of one NGO called ISODEC (The Integrated Social Development Centre) which addresses roots causes of poverty by focusing on budget advocacy with the goal of demystifying the government budget process in Ghana. ISODEC's work is unique as it focuses on understanding where the government spends its money and how to maximise revenue through taxes. ISODEC is currently working on mining and the organisation has also been working steadily on how to reduce tax leakages. The interview with this NGO provided a fresh approach to understanding the root causes of poverty, which partnership players claim relates to poor service provision without asking themselves why this happens and why the government appears to have insufficient revenue to fund public services despite the economic growth Ghana is experiencing.

With regard to interviews with children and families in cocoa farms a number of methodological points should be made. When visiting two cocoa farms, one east of Accra and the other close to Takoradi, I decided not to use formal interview techniques with children and farmers, rather I left the conversation to flow in order to learn about the challenges of

their daily lives. This choice was determined by two factors. First, Tulane University, Payson Centre, Oxfam, Antislavery and the ILO have all spent considerable time interviewing children and their families about child labour and poverty. These interviews provide a valuable amount of information, including the detailed mapping of poverty and the human rights situation for each community. Secondly, my research looks at power held by parties involved in partnerships and considers farmers and children as being the recipients of projects. These projects are designed by companies, public organisations and civil society organisations, which gather in different forms of partnerships and design programmes that meet the needs of children and their families. However, interviews with farmers gave me a better idea of the challenges they face on daily basis and helped me reflect on the impact that partnership projects have on their daily lives.

For the purpose of this research, power will be analysed at the junction at which decisions are taken and then implemented. Children and families will be considered in this research but only as beneficiaries of projects promoted by partnerships. In fact, a power analysis which included farmers' communities would have also implied an in-depth analysis of elements such as the way power takes shape in villages and rural communities of Ghana (for example the role of chiefs), the mediation between the visible and invisible world and ultimately spiritual elements (Ellis and Ter Haar 1998). Hence, my decision not to include farmers and children in power analysis.

In terms of the original classification provided – public, private, civil society and partnerships - a list of organisations interviewed will now be presented. Public organisations interviewed include the ILO International Programme Officer in Ghana and its Senior Programme Officer in Geneva. I also interviewed the Senior Adviser and consultant on CSR at UNICEF in Geneva. Interviews were also organised with the Deputy Director Officer of Child Labor, Forced Labor and Human Trafficking at the United States Department of Labor in Washington, and the entire office staff at NPECLC (Ghana National Program for the Elimination of Worst Forms of Child Labour in Cocoa), a division of the Ministry of Employment and Social Affairs in Ghana. The former is member of the CLCCG whose goal is to coordinate, monitor and assess projects run in cocoa farms to ultimately achieve the elimination of child labour (CLCCG 2011 Annual Report). The latter, NPECLC, is in charge of coordinating all cocoa projects in Ghana; NPECLC will be working with the ILO to set up the Ghana Child Labour Monitoring System (GCLMS) which will be led by the Minister of Employment and Social Welfare E.T. Mensah

(CLCCG 2011 Annual Report). The Ministry of Employment will be working through the Child Labour Unit whose goal is to coordinate and supervise the National Plan of Action for the elimination of child labour in Ghana (see the National Plan of Action 2009-2015). The GCLMS is funded by the partnership between the US Department of Labor, the ILO and Mars, Nestlé, Cargill, ADM, Barry Callebaut, Ferrero and Kraft. The government of Ghana has also contributed a GHc 2 million donation to NPECLC.

Company managers and directors of programmes have also been interviewed. Interviews were conducted with representatives of businesses such as Nestlé, Mars, Cargill, Ecom and Cadbury. Others either declined the request or neglected the invitation to participate (for example, COCOBOD, Olam, Barry Callebaut and ADM).

Telephone interviews were conducted with a number of organisations in the USA. One of these was with the Director of Global Programs of Mars. He provided information regarding Mars' former experience with the now completed partnership iMPACT in Ghana and Ivory Coast and on how this experience influenced their most recent strategy in the new partnership 'Vision for Change' in Ivory Coast. Another phone interview was conducted with a consultant operating in the cocoa industry who previously worked for the NGO Verité, and was in charge of the partnership, International Cocoa Verification Board, in Ghana. Another two phone interviews were conducted with the Deputy Director of Office of Child Labor, Forced Labor, and Human Trafficking of the US Department of Labor and with the Education Program Director of the World Cocoa Foundation. The interview with the latter was particularly difficult to conduct due to the obvious reticence and suspicion of the interviewer, who refused to answer certain questions and referred to the website for more general answers.

Civil society organisations included trade unions and NGOs. Interviews were organised with members from the General Agriculture Workers Union (GAWU) in Ghana, one individual from Education International, two exponents from the International Union of Food in Geneva and Accra and from the International Trade Union Confederation (ITUC) in Geneva. Three directors and two managers were interviewed from the NGOs War on Want, Care International in Ghana, Future Resource Development, Verité and Antislavery International.

Most of the organisations mentioned above mix and meet in different partnerships. For example, the World Cocoa Foundation, which was presented earlier and whose directors

were interviewed in Ghana and USA. The World Cocoa Foundation is here relevant because it launched a program called 'WCF Empowering Cocoa Households with Opportunities and Education Solutions (ECHOES)', which was funded by USAID, Mars, Barry Callebaut, Kraft Foods and Nestlé. The ECHOES program's aim is to support 41 cocoa communities in the Ashanti region and Western Ghana by providing basic adult education programs which include skills strengthening, a livelihood and household incomes development program, teacher training and literacy training (WCF website). These programs are implemented through two NGOs, Winrock International and World Education, representatives of which I was unable to interview. These NGOs were either difficult to access or they had no time for proper interviews.

The International Cocoa Initiative (ICI), is the other well known partnership which was established with the Harkin-Engel Protocol to eradicate child labour and promote the availability of education. The director and officers of the ICI secretariat were interviewed in Switzerland and Ghana. The ICI comprises a number of companies as presented in chapter one. The 2012-2015 strategy designed by the ICI moves towards research, monitoring and evaluation of projects, and ensuring that evidence influences future project design, strategies and advocacy (ICI 2010). The ICI, by virtue of its experience, claims that the use of child labour in cocoa production is the result of poverty, lack of awareness and knowledge of the hazards to which children are exposed when farming cocoa, poor education and schooling facilities, lack of basic services such as water and health clinics (ICI website). The ICI also points to poor governance in terms of rule of law. Since its establishment in 2002 until 2010 the ICI spent \$5.5 million in projects run in West Africa. In Ghana it works in the following regions: Ashanti South, Assin North, Mpohor Wassa East, Sefwi Akontombra, Sefwi Wiawso and Wassa Amenfi East and West (Tulane 2010).

The International Cocoa Initiative and the World Cocoa Foundation are two popular broad partnerships which mobilise huge funds and a number of organisations. But members of these two partnerships are involved in parallel smaller partnerships. I will provide two such examples in Ghana.

Cadbury, whose manager was interviewed in Ghana, is a member of both the International Cocoa Initiative and the World Cocoa Foundation. It funded the ILO recent partnership for the creation of the child labour monitoring system, but it is also in partnerships with Volunteer

Services Overseas, World Vision and Care International. These latter three partnerships have similar objectives to each other: improving cocoa production techniques (and therefore farmers' incomes), supporting education through the provision of schools and libraries, spearheading other community developments such as the building of potable water facilities, improving access to health clinics and roads and providing child labour eradication education (see Tulane 2010 interview with World Vision; Cadbury Cocoa Partnership, Care International - Rural development Initiative). These projects are run in four districts: New Juaben, West Akyem, Suhum Kraboa Coaltar and Fanteakwa (Cadbury 2012). In 2013 Cadbury donated 5000 bicycles to children who travelled long distances to go to school. The company partnerships also focuses on promoting sustainable cocoa production which is vital for both farmers and the future of the chocolate and cocoa industries, ultimately highlighting the business motive behind partnerships (Cadbury website).⁶⁶

Cargill has similar partnerships with Care International, World Cocoa Foundation, ILO and International Cocoa Initiative. Similarly, between 2007 and 2011, Mars piloted the iMPACT program (now complete), a series of 'community-led projects to improve living conditions, allowing these communities to pursue self-directed development across healthcare, sanitation, education and other vital areas' (Mars 2009). Mars also partnered with Rainforest Alliance, Africare, International Cocoa Initiative, International Foundation for Education and Self Help, German Technical Corporation, and Sustainable Tree Crops Program.

Experiences and lessons learned were also captured through an interview with a now consultant, but former NGO employee for Verité, where the interviewee had been leading the multi-stakeholder partnership called International Cocoa Verification Board. This was a multi-stakeholder body which has now been closed because its task is complete. The International Cocoa Verification Board's goal was to take an independent look at the national surveys on child labour carried out by both Ghana and Ivory Coast, and verify them through independent sources to determine their accuracy to determine whether or not they could be used as baseline for designing child labour programmes in the future.

Interviewees asked for their interviews to remain confidential so that statements could not be linked to specific individuals. For this reason I developed a series of pseudonymous (see

⁶⁶ Cadbury <http://www.thebicyclefactory.ca/>

Annex 2) to ensure anonymity of participants. Four public organisations have been interviewed in Ghana, US and Switzerland and I will refer to them as PubOrg 1, PubOrg 2, PubOrg 3, PubOrg 4. The five companies interviewed will be called ChokoComp 1, ChokoComp 2, ChokoComp 3, ChokoComp 4, ChokoComp 5. Civil society comprises NGOs and trade unions which have been named as NGO α , NGO β , NGO γ , NGO δ , NGO ϵ , NGO ζ , TradeU1, TradeU2, TradeU3, TradeU4. I interviewed two public private partnerships, however a former employee of Verité NGO also spoke about a now closed public private partnerships and I will also refer to this partnerships throughout my research. I will call them PPP1, PPP2 and PPP3.

As seen so far, partnerships in Ghana are numerous (see annex 3); organisations are involved in big and small partnerships with similar goals and activities which are generally implemented through NGOs. Annex 3 provides an overview of all the existing partnerships present in Ghana which was produced by a study conducted by Tulane University.⁶⁷ Clearly the number of organisations involved in cocoa partnerships is high. I chose to interview those organisations which had a specific focus on child rights as well as cocoa sustainability. I also selected those organisations which, following the campaigns of early 2000, decided to partner and address the issue of child labour.

Every project must be registered with the district administration⁶⁸ which should help avoid duplication and provide the African government with an overview of projects on the ground. Despite some partnership managers and member companies declaring that coordination of partnership programmes is clear, many other sources indicated otherwise. Some confusion also exists as to who monitors all these partnerships' projects. Two companies indicated that the ICI is the gatekeeper of all partnership projects, however, another indicated that the NPECLC performs this role. The former believed coordination was efficient; the latter believed coordination was poor.

Poor coordination has characterised the first decade of cocoa partnerships. ChokoComp 3 asked one NGO to count the number of projects being carried out in Ghana's cocoa farms. The NGO indicated that there were 65 projects funded by businesses in Ghana, yet that there was

⁶⁷ The 2009 analysis produced by Tulane University offers the most updated attempt to map the delivery of services offered by partnerships in Ghana, <http://ghanadb.childlabor-payson.org/SYNTHESIS%20of%20FINDINGS.pdf>

⁶⁸ Personal communication with directors and managers at PPP1 & 3, PubOrg 3.

no coordination between these projects and that the government was poorly informed about existing operations. The company manager concluded by saying that at certain point businesses thought that monitoring was needed.

In one case a partnership's manager discovered the organisation was working with 14 communities where another smaller partnership was working as well, yet there was no clear demarcation as to who was doing what.⁶⁹ The manager at PubOrg 3 described the situation in Ghana as follows:

'I call it a turf war. Everybody try to protect his/her own work, without sharing. They protect their interests. We want to know for example the districts where we would like to expand in to. So you want to have the list of communities from your partners and other implementing agencies, but you may not, because some agencies are not interested in sharing this information. For us, we can send you an email with the list of communities where we work, so that you don't go to the same communities in which we work'.

Some interesting information also came out during observations when carrying out interviews and during two spontaneous meetings. These meetings included a consultation on child rights and business held in Geneva and a spontaneous meeting with two businessmen⁷⁰ in the cocoa sector in Ghana.

During the first observation, I was a participant and observer at a multi-stakeholder consultation on children rights and business to design the new Children's Rights and Business Principles. On this occasion I observed people's behaviour and recorded comments. Some members engaged in cocoa partnerships were there. This experience was valuable as it helped me validate assumptions I had made about the cocoa sector and assess whether they were valid in other sectors as well.

The second observation exposed me to information regarding corruption in Ghana which until then had not been openly referred to as a problem. I will discuss corruption (together with tax inefficiency) in the next chapter, arguing that partnerships discuss addressing the root causes of poverty but never discuss resource drainage caused by corruption and tax inefficiency.

⁶⁹ Personal communication with senior officers at ChokoComp 3 & 5. .

⁷⁰ The name of this company is not mentioned in this research.

THE CHALLENGES OF ACCESSING “ELITES”

Most of the respondents analysed in this research can be defined as ‘elites’. Elites are individuals or organisations composed of people who occupy pivotal positions and whose actions or inactions can have major consequences (Mills 2000).

Public and business and in this study form elite organisations since at the time the research was carried out, these organisations occupied strategic decision making positions and/or were influential decisions makers (Harvey 2010:196). I consider elite also those big international NGOs like Care International, VSO, Fair Trade, Rainforest Alliance and UTZ which have adopted a corporate working style (see Wallace 2004) and play a role in influencing they way companies operate in partnerships.

Interviewing elites can facilitate the understanding of organisations that are usually insulated; however this may not always be the most appropriate strategy to understand this particular group (Harvey 2010). This is why it was important to reach individuals from other organisations, not only those involved in cocoa partnerships.

I identified individuals from elite business, public and civil society organisations whose decisions have major consequences on policy and the rule of law in cocoa farms in Ghana. Before agreeing to any interviews, 90% of representatives of these elite organisations requested information about my academic and work experience, the aims of my research and whether its results might contribute to improving the work of partnerships.

Three obstacles arose when trying to access and interview these elites:

1. Elite organisations can be insulated therefore identifying relevant contacts can be very challenging. This is why at the very first stage of this research I was firmly convinced I would encounter major difficulties when accessing corporations, since these are usually difficult to access (Robert 1993). However, throughout the process I came to realise that accessing multinationals was considerably easier than accessing NGOs in their head offices (i.e. Care International in London, VSO, Winrock, Education International) and fair trade organisations like Fair Trade, Rainforest Alliance and UTZ (which are also registered NGOs). Some companies were difficult to access, in particular, Hershey, Olam, Ferrero and ADM. In some cases my attempts were unsuccessful since I could not retrieve a relevant contact (this was the case for Care

International in the London Office and VSO, ADM, Hershey and Armajaro). In other cases, as with all the fair trade certification agencies and Barry Callebaut, requests for interviews were refused.

2. In some cases, the name of the person in charge of the relevant partnership's project was available online, however, his/her contact details were unavailable. When access becomes difficult, Odendahl and Shaw (2002) suggest: be creative! On a few occasions I called the general phone number indicated online and asked to be referred to Corporate Affairs. I also used LinkedIn to identify people's contacts from the Corporate Affairs team so that I could approach them directly. When the name of the relevant contact was available but reaching him/her by phone failed and/or his/her email contacts could not be identified, I used Google to retrieve the email by combining the name and surname available. It was also possible to retrieve and determine email addresses by examining corporate contact details.
3. At times I encountered reluctance on the part of some respondents to answer certain questions in an honest and straightforward manner. This was particularly the case when the interviewee had received extensive training on how to communicate the company's activities or view (Harvey 2010). Reluctance was very high when suspicion towards the question was high. For example, interviewing the director of one partnership in particular was very challenging as he constantly referred me to the website without providing any possibility to explore topics further or he simply stated he could not answer my questions.

Secrecy and a lack of transparency are usually associated with corporations (Tombs and Whyte 2003; Williams 2012). Williams (2012) describes how difficult accessing a powerful actor may be, but also notes that powerful people are not always in powerful positions. Most research which involves interviewing corporate elites encounters a high degree of refusal (Conti and O'Neil 2007; Robert 2003).

Nevertheless, the response received from corporate elites in this research was generally positive when I approached relevant contacts for interviews. However, on some occasions companies tend to provide only 'politically correct' answers without providing details about the real picture. In these cases, transparency was limited even when the organisation was willing to be interviewed.

Surprisingly, the most difficult and insulated organisations to access were NGOs' head offices in Europe and the USA (UTZ, Care International, VSO, Fair Trade, UTZ, Rainforest and World Vision). Where I was unable to conduct my own interview with individuals, I attempted to make up for this by making use of information and interviews available online.

During my research accessing some NGOs in the field proved more difficult. NGOs are understaffed and have lot of work to handle. The most common justification provided by NGOs when rejecting interviews was that they lacked time. In some cases, my emails or phone calls to individuals within NGOs were completely ignored, so no justification was provided. This difficulty in accessing NGOs clearly conflicts with the original goal of NGOs to act as members of civil society.

As members of civil society, NGOs should foster good governance, which should ultimately include views of members of the public (Ackerman et al. 2004). A company I interviewed described how NGOs facilitate dialogue with local community, however the insulation of NGOs' head offices clearly contradicts this public representation. Large NGOs have been and still are the main partners of corporations. Corporations often refer to NGOs as being 'implementing agencies'. NGOs have been widely criticised in recent years for their professionalisation, or better for their adoption of business logic and 'profit'/funding goal obsessions (Baviskar 2001; Bebbington and Riddell 1995; 2009; Nayar 2008; Wallace 2008).

Lack of trust also represented a major problem for this research, as a Ghanaian proverb says: 'Oyaa Suro Oyaa' (each person is afraid of the other person). But when fear is combined with miscommunication, major conflicts can arise. When I met with an individual from the NGO Solidaridad, a misunderstanding resulted in my eviction from the office. The incident highlights the poor level of understanding held by members of some organisations operating in Ghana, which is why it deserves a full description. I wrote to and telephoned the NGO Solidaridad a number of times with no success in terms of securing interviews. Only when I indicated that one of the organisation's donors (a company) had referred me to them did the programme coordinator invite me to his office. After greeting me the coordinator openly admitted that he only replied to me when he heard the name of the person who referred me. Solidaridad's representative asked which companies I had spoken to. I gave a list of names and he replied forcefully that none of these organisations were working in Ghana. I replied that I was surprised by this since I had interviewed two of them that morning in Accra. The

programme coordinator then reported that this was not possible, because these companies were his partners and as such he would have been aware of their work in Ghana with other organisations. In an attempt to clarify I tried to specify which projects I was referring to, which meant not only sustainable supply chain management projects, but also projects which included donations for education, access to water and child protection. Half way through my explanation, the individual interrupted me arguing that I was questioning his knowledge about his partners and that, as such, he would not carry on with the interview. My attempts to apologise for any misunderstanding, which was certainly not intended, not only failed to reassure the interviewee, but resulted in my being taken to the door, sent out and having the door shut in my face. I have reflected on that event and listened to the recording I took a number of times and have concluded that the programme coordinator was unaware that Cadbury, Mars (iMPACT) and Cargill were running, or had completed their own projects in Ghana independently of Solidaridad. He was also probably unaware that some of the companies I interviewed directly fund the World Cocoa Foundation which uses these funds to implement projects in Ghana.

This representative of the NGO was not aware, for example, that Nestlé, Mars and Cadbury (through the Mondelez International) fund the ECHOES (Empowering Cocoa Households with Opportunities and Education Solutions) project through the World Cocoa Foundation, that Cargill, Mars and Mondelez International (Cadbury) and Ecom Agroindustrial contribute financially to the project, Cocoa Livelihood Program, run by the World Cocoa Foundation and which reaches 35000 farmers in West Africa, including Ghana and Ivory Coast (World Cocoa Foundation 2013).⁷¹

This clearly shows that, despite in-depth research done by Tulane University; many organisations lack a full overview of who is doing what in Ghana. This was also confirmed by the majority of my interviewees.

⁷¹ The World Cocoa Foundation, Newsletter July & August 2013.

RESEARCHING TAXES AND CORRUPTION IN GHANA: EVADED SUBJECTS AND BIG ELEPHANTS IN THE ROOM

When conducting my interviews and carrying out desk based research, I realised that most parties referred to the formation of partnerships as being ‘THE way’ to go about addressing poverty and child rights related issues. However, during my interviews and when reading online reports, no serious debate was ever raised on the causes of poverty. By poverty, the parties usually appear to intend poor income, infrastructure, services and also poor legal enforcement due to a lack of funding. Some interviewees referred to the need for the African government to do more and take charge of public policy. Only one employees of a public organisation referred to the loss in tax revenues caused by the WB’s imposed structural adjustment programmes.

I mostly found that no serious analysis behind the causes of poverty was addressed. I will discuss this in chapter three, arguing that poverty has both exogenous and endogenous causes which have major impacts on legal enforcement and child rights advancement.

Exogenous causes of poverty include imposed structural adjustment programmes, unfavourable trading practices, massive foreign aid and power differentials between farmers and industry players as most of the profit lies with the processing of cocoa beans rather than the selling of the raw product to the manufacturers (Amin 1974; Frank 1975; Konadu-Agyemang 1998; Norbrook 2013; Onimode 1982; Rodney 2009; Ryan 2011; Wallerstein 1974). Thus child labour is also ‘in a manner of speaking, closely linked to the state of the world, which allows such a wide gap between ‘what people want and what they actually have’ (Meknassi 2010:84).

Endogenous factors not only include poor education, poor infrastructure and a lack of economic resources as most partnership members argue. These aspects indeed play a role, but other causes of poor public financial resources are inadequately addressed if at all. These include taxation malpractice, the granting of tax exemptions, corruption and public funds mismanagement. Tax inefficiencies and corruption have an impact on child rights advancement as they deprive the country of much needed resources which could be used to provide public services (such as better roads, health clinics in rural areas, schools, teachers

etc...) and supervisory means for legal enforcement (for example supervisory visits to farms, data collection on child labour, monitoring of child rights etc...).

I have shown how one NGO, ISODEC, has begun working on budget demystification and transparent taxation in mining to unlock potential financial resources. Certain causes of poverty are often neglected or not addressed by partnerships. In this research I will consider two factors in particular – long tax holidays for foreign companies and government corruption – and how these practices can undermine legal efficiency and enforcement. In fact partnerships, in specific sectors, cannot have huge impact on changing exogenous causes of poverty due to their limited scope of action.

The director of one partnership explained that discussing taxation is not in the organisation's mandate. However, one of his colleagues underlined that it is the government's duty to provide services through their taxation system:

'At the end of the day, is it for industry to provide schools in every remote corner of Ghana? I would say no, it is the responsibility of the Ghanaian government to promote primary education for all, to secure the revenue that they have and to deliver that and that should come from international development assistance and their own taxation system'.

Despite the above quote, questions are not raised surrounding the reasons why the government struggles to secure revenue and the subsequent continuing lack of financial resources held by the government.

A series of tax incentives have been promoted to attract manufacturers and agribusiness players, ultimately reducing tax revenues. Over the last decade, presidents Kufuor and Mills have tried to encourage processors to invest in and grind the beans in Ghana (Ryan 2011). In 1995 the Free-zone Act created a number of free zones where companies can operate and be exempt from direct taxes and duties. In addition, companies that decide to invest in Ghana are exempt from paying taxes on their profits for five years (PKF Worldwide Tax Guide 2011). Afterwards, they will only pay 8% corporate tax on their profits and their shareholders are exempt from paying taxes on those dividends arising from any investments in free zones (Prichard 2009). Two NGOs also confirmed that companies enjoy further tax discounts when investing in corporate social responsibly programs.

Civil society in Ghana has failed to highlight the loss of tax revenue at the expenses of public finances (Taxrate 2010). For example, the government of Ghana encourages corporate social responsibly by offering consistent tax deductions; therefore companies are encouraged to donate to NGOs, scholarship funding programs and rural and urban community projects, including human rights programmes (Raymond et al. 2006).

The provision of tax discounts and tax holidays on the one hand attracts foreign investment; on the other hand, the practice drains the country of financial resources that could be reinvested into public policy and law enforcement programs (Yong Kim 2013). Companies such as Barry Callebaut, ADM and Cargill have most recently opened grinder facilities in Ghana and benefit from such tax discounts. Meanwhile, the same companies enjoying these discounts are called to donate to projects that promote public policy and law enforcement. Ultimately, companies are among the biggest contributor to projects focused on child rights promotion but their money gravitates around their specific supply chain, in this case of cocoa. However, child labour requires a national policy and strategy to be addressed, while money gravitates mainly around cocoa.⁷²

Corruption is another major cause of poverty. When corrupted officials were found to be smuggling cocoa from Ghana to Ivory Coast, former president Atta Mills recognised that this practice was a plague that afflicted Ghana (Modern Ghana 2011). Mills declared:

'Look at the number of people who go to school under trees. Look at the number of people who cannot even have access to medical care. We need the revenue to be able to do that. And what is happening? The money you collect does not belong to you. It belongs to the nation and nobody has the right to appropriate what belongs to the nation'. (Atta Mills)

What Mill indicated is that corruption constitutes a violation of human rights and impedes poverty eradication since it diverts resources which are necessary for the government to provide food, health care, education (Cockroft 1998; Green and Ward 2004; Moyo 2010). Ultimately corruption has an impact on child rights promotion as it affects funds availability for public services such as building schools, roads, clinics. Public services, as chapter 3 will explain, are fundamental to the advancement of child rights.

⁷² Personal communication with senior officials at PubOrg2 and NGO 8.

Poverty alleviation simply cannot occur when corruption is high (Moyo 2010). Moyo (2010) explains how donors underestimate the problem of corruption and describes aid as being an African cultural commodity. The continent in fact lives off loans and grants; over the last fifty years having received US \$1 trillion in aid (Moyo 2010).

Despite the international community recognising the importance of good governance and adherence to the rule of law, the donor community turns a blind eye to the widespread corruption which aid itself feeds (Moyo 2010). Aid in Africa is not a time bound measure (as the Marshall Plan used to be), but it is converted in a permanent measure where 'all you have to do is to sit back and bank cheques' (Moyo 2010:36). One NGO worker with years of experience working in cocoa partnerships reported this new tendency within the international aid sector:

'Donors - business and statutory - have started giving more money to government thanks to trade unions and NGOs. [...] The Government should get money through taxes, but they now get them through donations more and more. But governments have tended to mess with these funds, much more money goes lost or sent to different directions. This tendency started with the excuse of improving government coordination of activities'.

National corruption and funding mismanagement are two topics not addressed by partnerships. In the quote above, interestingly, the word corruption is never mentioned, but other words are used such as 'money goes lost', money is 'sent to different directions'. The same NGO worker told me: 'You are researching a very sensitive topic. Are you aware of this?' The interviewee clearly indicating I should be careful when researching the cocoa industry in Ghana.

My observation work in Ghana exposed me to further information on corruption; however inquiring about corruption within the cocoa industry in Ghana is not easy. Every time I attempted to address the issue, people either turned off the recorder or/and referred to the concept indirectly. The word corruption was never mentioned by interviewees.

When speaking about tax revenue being reinvested into communities many international organisations defended the Ghanaian government arguing that they are doing a lot to improve cocoa farming practices and farmers' lives.

The Ghanaian government is indeed investing more money into the industry than any other neighbouring country. However, when I asked a company representative whether his organisation pose questions in relation to where taxation revenue goes, he replied:

'People pose it in private, but if you try to raise this question people say: well but we are not here to look back. And I understand that, but who is going to address these policy needs?'

'The big elephant in the room is that the governments of Ghana and Ivory Coast have extracted many billions of dollars over the last 40 years from the cocoa sector'.

The Executive Secretary of the Anti Corruption Coalition (GACC) said that corruption is a major cause of poverty and it weakens the process towards development (Ghana Business News 2009).

Corruption is seen by some members of partnerships as being something of the past (Williams 2009). This was confirmed by a company representative when he noted that corruption is not discussed by partnership members as they want to look forward and not backward.

COCOBOD is the marketing board which, after Ghana's independence in 1957 and under the Nkrumah's rule, became famous for corruption and mismanagement and for forcing local farmers to join Nkrumah's party so the political elites would be more able to control production and increase the party's wealth (Meredith 2006). COCOBOD was well known for distributing credit, concessions of contracts, licenses and jobs to party supporters (Meredith 2006).

A working paper published by the IMF in 2011 showed an improvement on control of corruption in Ghana (IMF 2011). However, a research conducted by Transparency International (http://www.transparency.org/country#GHA_PublicOpinion) indicated that 60% of the public opinion feels that corruption from 2007 to 2010 increased. In a research conducted by Williams (2009), Ghanaian journalists, representatives of the IMF and the EU, and former COCOBOD employees reported that they had not heard about any serious corruption taking place since the mid-1990s. Simply 'not hearing' about corruption, however, does not mean that it is not taking place. In fact, despite the issue of corruption being almost

never addressed during my interviews, corruption was a daily topic of discussion in Ghana and is certainly a reality which affects institutions as well.

On two occasions I spoke to businessmen that I happened to meet and who were unaware of the purpose of my stay. On one occasion I visited a cocoa grinding facility out of curiosity. As I did not intend to interview members of the company, I presented myself as a tourist interested in local industry. I was kindly welcomed and taken around. Following my visit one of the directors invited me for lunch with his staff. This was when I discovered that if I wanted to learn about corruption in Ghana, my role as a researcher would always compromise the answers to my questions. The European businessman told me that he had recently been stationed in Ghana and began talking with frustration about the challenges of dealing with corruption 'if you want to do business in Ghana'. I was surprised about how openly he spoke about this issue and how he openly reported that corrupt practices were used regularly by his company in order to ease the smuggling of cocoa from Ivory Coast where the price was cheaper than the one set by COCOBOD.

On another occasion a consultant from Italy working for COCOBOD stayed in my hotel. I did not have the chance to talk to him directly, but the hotel owners told me over dinner how the consultant discussed the COCOBOD's misuse of World Bank donations to buy expensive cars for officials.

Corruption is not a matter of the past but an issue of the present and it affects child rights. Allegations of corruption reached the National Programme for the Elimination of the Worst Forms of Child Labour in Cocoa (known as NPECLC) in 2010. The NPECLC is a donor funded organisation under the Ministry of Employment and Social Welfare.⁷³ The NPECLC and its former officer, Mrs Rita Owusu Amankwah, received huge amounts of funding from DANIDA, COCOBOD and other donors (Dogbey 2010).

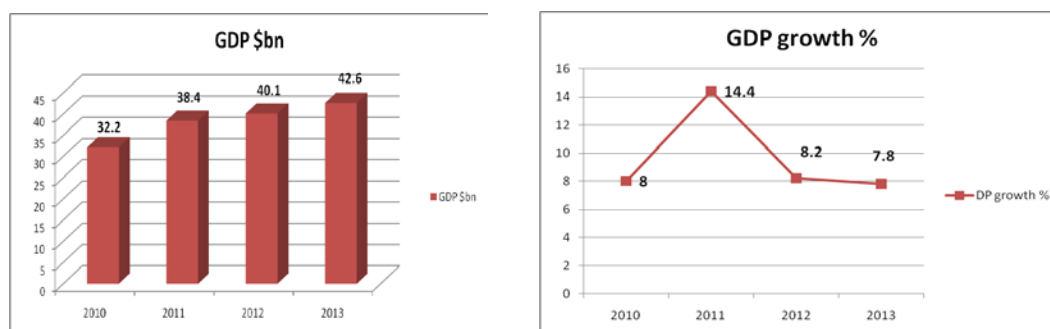
In 2010, NPECLC's former officer, Mrs Rita, was accused of corruption for having set up her own NGO, Aid for Change Ghana, and managed to make it one of the partners of NPECLC. This way she managed to advance huge funds to the NGO with the purpose of training cocoa farmers against the use of child labour in cocoa farms.

⁷³ NPECLC was initially funded by the cocoa and chocolate industry and currently funded by the COCOBOD and the US Department of Labor

Documents proved that Mrs Rita was registered as the director of this NGO - despite her denying it – and that a key official of the Ministry, Mr Vincent Frimpong Manu, was a member of the NGO's board. Mr Manu applied for funding to be given to Aid for Change Ghana through Ms Rita. Evidence demonstrated that the NGO was ultimately run by the ministry itself, a clear case of conflict of interest (Dogbey 2010).

There is no doubt that the Ghanaian government is investing in addressing issues within the cocoa industry, but neglecting the issue of corruption is akin to overlooking one of the major causes of resource drainage. Ghana's economy is thriving and its GDP is growing every year (see tables below) thanks also to the recent oil discovery, gas processing and growing infrastructures financed by a US \$3billion loan from the China Development Bank (Africa Practice 2012; Vibe Ghana 2012). Ghana will have to repay the loan to China by providing 13000 barrels of oil per day for the next 15.5 years (Vibe Ghana 2012). With the price being US \$107 per barrel, Ghana will be paying back a total of US \$7.9 billion, US \$5 billion more than originally borrowed, which is an incredible interest rate. Suspicion over corruption followed quickly also in this instance (Vibe Ghana 2012).

FIGURE 2 GDP VALUES (2010 – 2013)



SOURCE, THE AFRICA REPORT (DECEMBER 2012)

By examining Ghana's economic performance together with its persistent poverty levels, questions about tax and corruption must also be raised. The GDP growth in Ghana has been projected at 8.3% for 2012 and at 7.8% in 2013, with forecasts also estimating considerable growth rates for the following four years (The Africa Report 2012). The newly elected president of the National Democratic Congress (NDC), John Dramani Mahama, has promised to improve infrastructure, education and living standards across the country, however these promises are yet to turn into effective actions (Africa Practice 2012).

Two documents caught my attention due to their lack of coverage regarding corruption and taxation. One was the research produced by Tulane University. However this probably should not draw surprise since the group is funded by the US Department of Labor and monitors the progress of existing projects, hence their focus is specific. Their research lenses are extremely focused on the progress of child labour elimination strategies and as such fails to consider other factors which warrant attention. The other document which neglects the issue of taxation and corruption is the 10 Campaign which unites ten NGOs to supervise the chocolate and cocoa industries' work on child labour.

The 10 Campaign merely focuses on what companies should do, describing the governments of Ghana and Ivory Coast as 'struggling to make ends meet' (10 Campaign 2011:13). Representatives from two companies added that whenever the government of Ghana is asked to allocate more money to child labour issues, the answer is that funding is not available.

Despite Ghana performing well economically over the last decade, interviewees and researches continue to refer to Ghana as a country facing serious financial difficulties.

They all talk about the plague of poverty and its effects on child rights. They suggest how poverty could be eradicated by increasing cocoa productivity, building schools and providing services, as well as training farmers. All these would, according to interviewees, increase farmers' income and awareness about the risks of worst forms of child labour and eventually eradicate poverty. Corruption and taxes were never mentioned openly in regards to this issue.

I have identified two factors which led interviewees⁷⁴ to overlook corruption: first, by nature, partnerships are based on mutual trust (Richter 2003), secondly the fact that I was conducting research and am white European (especially in Ghana). Partnerships exist between organisations that base their actions on trust and mutual benefits (Richter 2003). Discussing government corruption or mismanagement of funding represents a violation of this trust which is granted on these kinds of platforms. Both the National Democratic Congress (NDC) and the New Patriotic Party (NPP) have been protagonists of grand corruption over the last decade despite both sides promising to fight corruption (The Africa Report 2012). Corruption remains a structural problem in Ghana, yet in the name of

⁷⁴ Particularly senior officers at Chokocomp 1, 2, 3, 4 & 5, NGO α , γ & ϵ , PPP1 & 2.

partnerships, nobody talks about this big elephant in the room. The issue of taxation faces a similar fate, as this topic is not considered to be relevant to the goal of child labour eradication – yet poor tax systems determine a loss of revenue and consequently a lack of funding for much needed public policy initiatives. My being a researcher and a white woman indeed constituted an obstacle to the disclosure of such issues with both European and Ghanaian interviewees. As a Ghanaian trade unionist pointed out to me with the Ghanaian saying ‘Oyaa Suro Oyaa’: each person is afraid of the other person. He continued by saying:

‘white people went to collect information and they reported the information distorted, or they dramatised the information in a way that they were not used to. Naturally they became suspicious especially of researchers’ (Member of TradeU2).

When this person is a foreigner and your country or sector has been targeted by name and shame campaigns for the last decade, that fear is likely to become bigger. Fear and suspicion of white researchers is spread particularly among farmers, as the trade union representative explained.

POWER ASYMMETRIES: DEFINITION AND LEVELS OF ANALYSIS

I have already mentioned that I intend to examine power dynamics in order to understand how different organisations working in partnerships manage to exert their power and shape the way partnerships operate as regulatory bodies in the enforcement of child rights and poverty relief strategies.

I have also explained that members of partnerships only partially analyse the causes of poverty, neglecting certain key factors - tax leakages, tax breaks and corruption - which contribute to resource drainage. This limited approach leads them to design projects that address only the symptoms of poverty – poor service provision, including education- but poorly address the issue of governance.

I will now outline my method for exploring power dynamics as drivers that shape the strategies of partnerships.

When different parties work together they assimilate reciprocal point of views which complicates the research of power. In fact, in this scenario constructive criticism tends to be replaced by affection (Cotterrell 1984). At the very beginning of most of my interviews,

different organisations presented partnerships as being peaceful arenas where different players work together to achieve common goals. They address child labour and eradicating poverty through livelihood programmes and initiatives designed to increase cocoa production. Nevertheless, interviews with farmers, cocoa processors, chocolate manufacturers, international organisations, civil society organisations and government agencies offered some interesting information by which to analyse and go beyond the marketing facade of 'we are all in this together'.

Present literature on labour rights, human rights and partnerships describes the predominant role of multinationals' power within partnerships. The argument goes further by asserting that corporate codes of conduct are prevailing over legally binding measures, ultimately leading towards a privatisation of labour rights where civil society and public organisations have lost their power (Arthurs 2001; 2006; Blainpain 2000; Craig et al. 2006; Gallin 2000; Utting 2005).

Existing literature looks at power merely on an economic level of analysis, but this research sets out to understand power on different levels. This analysis will be carried out through the economic lenses, but also political and ideological lenses. Ultimately I start from the idea that power is not concentrated uniquely in corporations' hands, proposing that other players also play a role in terms of power exertion.

Cocoa partnerships aim to achieve two goals: advancement of domestic and international legal norms as well as sustainability of the cocoa industry, as previously explained in this chapter.

Public private partnerships have come to play a greater role as legal enforcement agents. I previously explained how partnerships contribute financial and technical resources to the advancement of child rights by providing schools, teachers and other educational services to children in need. In terms of recent partnerships, members also play a financial or technical role in implementing Ghana's child labour monitoring system.

Partnerships between businesses and NGOs still maintain a strong commitment to guaranteeing the future of cocoa and a sustainable supply chain. In fact, poverty and the harsh realities of life working on cocoa farms is putting the future of cocoa farming at risk as many youths leave farms (Kettis and Pot 2010).

Through the operation of partnerships, the promotion of human rights and commercial interests converge.⁷⁵ The main goal behind cocoa partnerships is to fight child labour by tackling poverty and increasing farmers' incomes and their yields, while improving enforcement and efficiency of the law (by providing much needed public policy and a new child labour monitoring system).

Partnerships support goals put forward by the concept of corporate social responsibility. They support the idea that more business is the solution for a more human capitalism which will lift farmers out of poverty (Fleming and Jones 2013). Partnerships as well as public, private and civil society organisations reinforce the view that increased profit levels can enhance public interest and social justice. It is therefore wrong to assume that partnerships and related corporate social responsibility initiatives mean the end of the economic rational hegemony. Rather, all partnership parties reinforce this economic rationality as they make it a strategy towards an accumulation process (Fleming and Jones 2013; Fleming et al. 2007) and a means towards social justice.

Lukes (2005) argues that power reveals itself in cases of conflict, but also in cases where conflicts are managed, as in partnerships. Where a group is legitimised, it manages to act in 'concert and remains in existence only as long as the group keeps together' (Arendt 1970:40). Exactly like a partnership. Hence open conflict – which could arise from discussing issues surrounding taxation or corruption – can result in risks for members who find a benefit in maintaining the status quo.

Mostly interviewees felt quite concerned about the word 'power' and tried to point out that nobody in partnerships holds power. Interviewees tended to interpret power in Max Weber's terms, where the power's holder is whoever realises this power against any resistance (Weber 1992). Yet, power is not something that one possesses and uses at will.

Power is something we cannot transcend since it is embodied in routine work which takes place in specific structures and favours the interests of one party in a systematic way (Cotterrell 197; Lukes 2005; Poggi 2001).

My intention of employing power as a key for interpretation does not mean that partnerships are *merely* structured by power relations, but that they are *also* structured them. Thus, if the

⁷⁵ Personal communications with the director at PPP1.

role of partnerships in promoting children's rights is to be understood, the power dynamics within these partnerships and how these change over time, need also to be analysed.

Through this research I want to understand which norms guide the actions of partnership members specifically towards the advancement of children's rights. By norms I do not only refer to labour rights and international conventions for the elimination of worst forms of child labour. Power dynamics change over the time and thus they arrange and rearrange themselves. Through this process of power arrangement, some ideas and principles, which rule and guide partnerships are *normalised* and ultimately they guide the actions of partnerships.

Normalisation is a process through which power is exercised and status and privileges, are removed thanks to a process of homogenisation (Foucault 1975). The presence of legal standards provides a general goal for all parties involved in partnerships fitting well with the idea that all parties are presented as being equal and working towards the same goals of respecting human rights, improving living conditions and ultimately mitigating the negative consequences of global production. 'We are all in this together' was a sentence that I heard more than once during my interviews. Meaning that all parties are committed to address child labour and ensure children are protected from hazardous labour practices.

Law is the primary norm that guides partnership programmes. Partnerships aim to ensure compliance with legal standards and provide a point of reference for all. But when designing strategies which aim to meet international and national standards, in this case, the eradication of the use of child labour in cocoa farms, each player maintains its different organisational norms which guide their actions towards achieving their organisational goals.

Multinationals are seen as uniquely powerful because most of the authors examine economic power, neglecting other levels of analyses such as the political and ideological (Anderson et al. 2000; Arthurs 1996; Blanpain et al. 2004; Conway and Heynen 2006; Hardt et al. 2001; Hepple 1997; Park and Vetterlein 2010; Tombs and Whyte 2003). In chapter one I demonstrated how most authors see companies as being the only power players in partnerships; advocates of this position overlook the role of civil society, international organisations and states in exercising different forms of power. As Ashman has concluded:

'Partners might not be equal in size, resources and expertise. [...] Since business tends to have more financial resources, they are

usually seen as the more powerful partner in most civil society-business relationships'. (Ashman 2001:1098)

But he also argues that more study is needed into "the way organisational arrangements balance power differences between civil society and business" (Ashman 2001).

I want to understand how different parties in partnerships acquire power and how other parties are subjected to this power and/or excluded from it ultimately affecting future strategies for implementing children's rights (Poggi 2001). At the heart of partnerships lies the conviction that all parties should be equal and that only the acknowledgement of reciprocal skills and expertise can help achieve concrete results (Ashman 2001).⁷⁶ This conviction was rarely contested during my interviewees, despite some individuals raising doubts. But they all agreed that partnerships help them achieve mutual benefits, for example, 'the transaction costs associated with collaboration are compensated for by benefits that otherwise would be difficult to attain' (Ashman 2001: 1104). Some interviewees in this study presented partnerships as forums where all parties are equal. But this research will demonstrate that different players can hold greater and lesser power and that partnerships are not necessarily based on equality. I also wanted to assess how powerful leaders (not only multinationals but also civil society and public actors) do not merely respond to preferences of constituents, but are also able to shape those preferences (Dahl 1961).

Building on these ideas, this research investigates power on different levels of analysis, and how power shapes preferences and approaches when regulating labour rights through partnerships. In assessing power relationships, I examine how negotiations between different parties affect the design and implementation of projects aimed at advancing human rights.

To explore how power is exercised, Poggi's (2011) analytical framework will be used. Poggi (2001:13) offers a simple but useful formulation of power – the ability to cause 'another to act in a certain way'. '(P)ower designates relationships between partners' and by this he does not mean that power is a 'zero sum game but simply [...] an ensemble of actions which induce others and follow one another' (Foucault 1982: 786). I will look at power asymmetries on a political, ideological and economic level of analysis (Poggi 2001: 13).

Political Power expresses itself through command whereby political-power holders issue orders and establish arrangements and ultimately institute punishments against those who

⁷⁶ Personal communications with directors at PPP1 & 2 and ChokoComp 1 & 5.

oppose these orders and arrangements. Access to this form of power is the principle pole of political power (Poggi 2001). Having a political role does not necessarily mean one has political power. For example, Senator Harkin and Congressman Engel from the US put pressure on companies, but also on the Ghanaian government to take measures to address child labour. Failing to do so would have resulted in sanctions for the government of Ghana which, by definition, is a political actor with political power.⁷⁷

Economic Power is exercised when power holders exchange possessions with others, expecting in return items and services they did not possess (Poggi 2001). For an example, farmers may work for wealthy companies to their business advantage, by exchanging their produce for money.

Finally *ideological/normative power* is exercised through custom and refers to a way of thinking and acting which gains strong status and is widely accepted by all parties as being an uncontested truth. Ideological power holders have a monopoly over the 'meaning of norms, and aesthetic and ritual practices' (Poggi 2011:97). Economic and ideological powers reinforce and are reinforced by political power.

Only by looking at power on political, ideological and economic levels, it is possible to understand how public, business and civil society organisations respond to preferences of other constituents or shape preferences.

Within each level of power I have identified three components of power: luring power, power perception and decision power. Luring power is the ability to seduce free players to follow one path in order to achieve a particular goal in a particular way (Foucault 1982 and Poggi 2011). Power perception exists when power in partnerships is as much a question of internal perception as outside 'imposition'. In fact Actor A might accept decisions made by Actor B in the belief that the former lack skills that the latter ultimately possesses. In this sense power is attributed to the counterpart on the basis of a number of assumptions.

Lastly, as Foucault (1982) has demonstrated, decision power is more a question of government than a confrontation between two adversaries. By this he means that power is about guiding subjects, ultimately structuring and shaping the 'possible field of action of others' (Foucault 1982: 790). Those in power prevail in the decision making process and can prevent conflicts from arising (Foucault 1982; Lukes 2005). Foucault continues by explaining

⁷⁷ Personal communication with a manager at PubOrg 2.

that *'power is not an institution, and not a structure; neither is it a certain strength we are endowed with; it is the name that one attributes to a complex strategic situation in a particular society'* (Foucault 2008:2). Throughout this research I will consider these three components of power.

Some preliminary observations show how NGOs and international organisations dominate the discourse over poverty relief and human rights enforcement, whereas businesses dominate the debate on successful business strategies to address poverty. But these issues require further analysis. For instance, public organisations and civil society reveal a fascination for the 'business-like way of working', having adopted business tools and corporate codes of conduct in their office (Wallace 2008). Ideological power takes shape when businesses suppose that NGOs and international organisations have the solution to human rights problems. During interviews, as will be demonstrated in chapter four, companies consistently refer to the expertise of NGOs in terms of poverty relief strategies – power perception - despite NGOs having failed in their fight against poverty and having demonstrated their inability to determine a substantial change in the lives of their beneficiaries (Zaidi 1999). Yet companies consider NGOs as experts in addressing poverty and advancing human rights and often refer to NGOs as 'service providers'. Meanwhile, NGOs act as service providers and put their 'expertise' at the service of the business sector to implement corporate social responsibility programmes. Their role as service providers confirms critics' claims that NGOs have lost the ability of acting as political advocates for change in the defence of poor and marginalised people (Ghosh 2009: 249; Karat 1984; Petras 1997). Ultimately, different organisations now work together and partnership strategies are influenced by all parties' decisions. These decisions gain formal validity in the name of their reciprocal expertise. The thesis will examine the relationships between all players in cocoa partnerships in detail with specific attention to the issue of child labour.

CHAPTER 3

THE GHANAIAN EXPERIENCE: PARTNERSHIPS AND CHILD LABOUR IN COCOA FARMING

*If you want to send your children to school, it is cocoa
If you want to build your house, it is cocoa
If you want to marry, it is cocoa
If you want to buy a lorry, it is cocoa
Whatever you want to do in this world
It is with cocoa money that you do it
(Popular Ghanaian song, 1950)*

In this chapter I discuss the problem of child rights that is at the centre of cocoa partnerships: the practice of child labour and, more specifically, the worst forms of child labour in Africa, particularly Ghana. This chapter is divided into three parts and it addresses the legal and historical aspects concerning cocoa supply chains and child rights.

The first part provides a historical overview of the cocoa industry in Ghana and its relationship with political elites. This history introduction assists with understanding the centrality of the cocoa industry to Ghana's politics and economics. As a Ghanaian song from the 1950s indicates, every aspect of social life is connected to cocoa; the same can be said for its history. I will describe how Ghana went from being a promising star of Africa in the 1950s to becoming a country on the edge of bankruptcy under Nkruma's rule. This is a story of years of corruption and mismanagement, which goes back to the years of colonisation under British rule and which saw, and still sees, huge revenues exploited to the benefit of the ruling class.

The second part of this chapter introduces the legal context surrounding the use of child labour. It presents the international and national legal framework regarding child labour and also highlights the causes of this practice.

The third section looks at the problem behind enforcing laws aimed at preventing child labour and the efficiency of child rights legislation in Ghana, as well as more generally in Africa. Among the three institutional characteristics of law (enforcement, dispute processing

and doctrinal development) I will focus on enforcement and ultimately the efficiency and enforcement of human rights (Cotterrell 1997:31).

PART ONE: GHANA - THE PROMISING STAR

The history of Ghana and cocoa is also a history of successive corruption scandals surrounding local chiefs and central government. As a result of these scandals farmers have been deprived of cocoa revenue stolen by elites for decades. This has predictable consequences on poverty, as poverty alleviation cannot occur where corruption runs deep (Moyo 2010:50). Until its independence in 1953, Ghana was known as the 'Gold Coast' (Bayer et al. 2009; Krafona 1995; Reader 1997). Having a cocoa-based economy since colonisation, Ghana's economic fortunes and misfortunes are closely related to the cocoa sector (Woods 2007).

Partnerships treat corruption as being a problem of the past. An employee of a company interviewed explained that each time someone raises the question of where tax revenue and other financial resources go, people involved in public-private partnerships (PPPs) say that there is no point in looking back and that they should instead look forward.

Ultimately members of PPPs believe that partnerships can achieve positive change in the fight against poverty only by looking forward and trusting each other.⁷⁸ In this environment uncomfortable topics, such as funding mismanagement or corruption, that are at the heart of good governance (Moyo 2010), are avoided in order to limit the risks of tension between different parties involved.

Yet Atta Mills openly admitted that corruption in Ghana remains a problem today and that it poses a huge obstacle to the fight against poverty, as will be later demonstrated. He stated this when discovering cocoa smuggling to Ivory Coast was occurring at Tema harbour in 2011 (Mensah et al. 2003).

The Ghanaian economy has had strong ties to cocoa production since the country gained independence, but its economic relevance goes back even further. Cocoa arrived in Ghana in 1815 but it did not become a cash crop until the end of the 1800s (Boas et al. 2006). Bayer et al. (2009) recall how the British Empire benefited from cocoa production while not investing

⁷⁸ Personal communication with the director of ChokoComp 4.

in the support of its production. It was mainly the Ghanaian government and farming technology which did the best to preserve cocoa crops.

Trade agreements with local chiefs meant the region soon became a very important trading region for Britain. Under British rule, neo-traditional elites gained western education, adopted new lifestyles and most importantly, they obtained governmental administrative functions (Gann 1975; Whitfield 2008). These elites included traditional families with business interests in the cocoa sector (Whitfield 2008; Krafona 1995). Chiefs, doctors, lawyers, intellectuals, businessmen and farmers, together with their colonial rulers formed a powerful minority in comparison to small farmers, traders and unemployed people (Krafona 1995).

Traditional chiefs in Ghana played a major role in cocoa farm expansion. With the spread of cocoa farms under traditional rule, the power of local chiefs increased dramatically (Boone 2003; Boas et al. 2006). Traditional laws for land usage contributed to the unbalanced distribution of power among citizens (Osei 1998). As in many traditional African communities there is a strong difference between the use of land and its ownership. Land belongs to the clan but other citizens can cultivate that land without paying rent to the clan. Foreigners, however, must purchase usufructuary rights to cultivate it (Boas et al. 2006). This system was crucial in regulating cocoa growing areas and increased the power of local chiefs who requested one-third of cocoa crops as a form of remuneration (Boone 2003).

The production of cocoa remained unregulated until a virus in the mid-1930s threatened the future of cocoa yields (Okali 1998). The government intervened to support farmers and to research new investments which could restore cocoa farms affected by the virus.

By 1939 cocoa production in Ghana accounted for 80% of the country's exports, yet farmers received low remuneration for their work (Howard 1997; Leiter et al. 2004). In 1937-1938 rich farmers and coastal tradesmen organised the first boycott of cocoa in response to European companies controlling prices paid to farmers. The boycott was ultimately organised to put an end to the control exercised by British companies over cocoa which was produced in Ghana by poor farmers (Howard 1976).

The boycott was the response of farmers who realised that:

'if brokers were eliminated, the European firms would no longer have control over the cocoa market. If they were not tied through credit to the Europeans, Africans would be able to ship cocoa on their own. By tying customers to them, the expatriates could buy cocoa at lower prices than they would have to pay if they were competing on the open market with African shippers'. (Howard 1976:476)

While farmers were paid very little for their cocoa, European businesses made huge profits thanks to:

'a system of sub-brokerage and brokerage of cocoa prior to its actual arrival at the port of export, combined with the system of hedging and advanced pricing encouraged by the Cocoa Exchanges established in London and New York in the mid nineteen-twenties'. (Howard 1976:470)

In 1940 Ghanaian governmental and British interests led to the reorganisation of the cocoa industry. In 1939 the United African Company (owned by the company Unilever) pressured the British government to regulate the cocoa marketing board in Ghana (Bayer et al. 2009; Alence 2001).

In 1947 the colonial authorities established a state-controlled marketing system called COCOBOD (Ghana Cocoa Board). The creation of this system, which was meant to be only temporary during the Second World War in response to global market volatility, became a permanent measure (Alence 2001). COCOBOD still exists today and is responsible for licensing traders and regulating the cocoa market by establishing the price farmers receive for their cocoa and organising the marketing of cocoa (Ghana COCOBOD; Meredith 2006).

The creation of the COCOBOD marked an important historical moment for Ghana as it would influence the future of state engagement in the country's economy. A largely unregulated system of cocoa marketing was transformed. A statutory board gained the authority to set prices for farmers who were required to sell all of their production to the body (Alence 2001:397). The cocoa was then bought by the British government at a fixed price and eventually sold to licensed companies (Alence 2001). Information from the Colonial Office memo on cocoa control dated 1939 revealed that this system was created to avoid the situation where:

'limited shipping space and the loss of the German market would allow buyers to depress the price paid to producers, while

purchasing only quantities for which they were able to obtain a guarantee of shipping space' (Bayer et al. 2009:7)'.

According to Alence (2001) the creation of COCOBOD resulted from the attempt to centralise economic control over the colonies and coordinate the mobilisation of resources during a period of high debt (Alence 2001; Meredith 1986). It was ultimately the commercial interest of the British which led Ghana to adopt a statutory marketing system. According to Alence (2001:399):

'government concern about trade-induced social conflict is crucial to understanding the shift to state-controlled cocoa marketing. The Gold Coast government's support for the temporary wartime controls was motivated largely by the desire to avoid a cocoa 'holdup' like the one that had brought the country's external commerce to a standstill during the 1937-8 season. The holdup was the latest and most disruptive in a series of protests reflecting rising African resentment of the European firms that dominated the colony's transoceanic trade and whose collusive 1937 'pool' was blamed for a sharp drop in prices'.

Later on the COCOBOD was partially reformed as operational control was moved from London to Accra and led by the local government. Quotas were abolished, but the organisation kept hold of the power to fix the prices of producers (Alence 2001; Bayer et al 2009).

By the time Ghana gained independence in 1957 the country had a good education system, an educated and skilled workforce and better public services in comparison with its neighbouring countries (Meredith 2006; Konadu-Agyemang 1998). Ghana was the world's leading cocoa producer and exporter (the export of cocoa accounted for 66% of export earnings) with reserves reaching £200 million (Konadu-Agyemang 1998; Krafona 1985). Most of the trade remained with Western countries and only little within the African countries (Krafona 1985).

Under its first post-colonial political leader, Kwame Nkrumah, leader of the Conventional People's Party (CPP), Ghana developed fast with new schools and clinics with the goal of making Ghana an example of an industrialised society in Africa (Meredith 2006; Reader 1998; Krafona 1985). Agriculture became more diversified with the introduction of rubber, banana, palm oil and citrus plantations (Krafona 1985).

Nkrumah wanted to set Ghana on a path towards industrialisation and invested around £40 million to set up more than 40 state corporations to achieve this goal (Werlin 1973; Krafona 1985).

Under Nkruma the state became the hub of production, distribution, and capital accumulation' (Azarya et al. 1987:34). Although Nkruma is very much loved by Ghanaians for his attempts to unify Africa against colonial powers, his government is also remembered for exercising a high degree of corruption and for bringing the country to the edge of bankruptcy (Whitfield 2009; Woods 2007).

By 1966 Ghana's public external debt amounted to £800 million and the country also suffered from high inflation and unemployment (Konadu-Agyemang 1998). Economic deterioration led to a fall in agricultural production and a loss of self-sufficiency of food which determined an increase in rice imports (Azarya et al. 1987). Meanwhile, the ruling class exploited the high rents generated by cocoa exports to maximise their wealth at the expense of impoverished farmers (Azarya et al. 1987; Meredith 1986; Werlin 1973; Woods 2007).

Under Nkrumah's rule COCOBOD became famous for corruption and mismanagement (Meredith 2006). Through the COCOBOD local farmers were forced to join Nkrumah's party, so the political elite would be more able to control production and increase the party's wealth (Meredith 2006). In addition, COCOBOD distributed credit, concessions of contracts, licenses and jobs to party supporters (Meredith 2006). Farmer rights were completely neglected as prices for unprocessed beans were kept low. The alleged excuse being that the government wanted to use the international revenue for development projects (Meredith 2006).

Struggles over cocoa rents became a significant factor in conflicts which arose between national and local elites (Boone 2003; Woods 2007). Nkruma found strong opposition amongst local chiefs who played a prominent role in land allocation. The COCOBOD served well for this purpose as it was used to tax and control the commercialisation of cocoa (Woods 2007).

Between 1964 and 1965 cocoa prices collapsed and in the 1970s cocoa production began to sharply decline (Woods 2007). This was the result of three factors. First, access to new land became difficult due to conflict over land tenure (Woods 2007). Second, Nkruma replaced village chiefs with people close to his party, ultimately destabilising the equilibrium between

villages (Woos 2007). Third, the cost of labour rose when the labour force became attracted by overpaid public jobs. In addition, the practice of using child labour reduced thanks to the massive expansion of education (Beckman 1976; Woods 2007). The cocoa sector did not regain its original position until the 80s.

Corruption, embezzlement and bribery affected all government departments and ministers 'became well known for pushing contracts with foreign corporations for a 10% fee' (Meredith 2006:78). Corruption under Nkrumah's government, and later under Busia's rule, stemmed from the absence of clear power, rather than absolute power, hence why both leaders resorted to patronage to ensure loyalty (Werlin 1973).

Nkrumah himself used bribes to increase his personal wealth. He established a company, the National Development Corporation, to facilitate meetings between foreign businesses, offering bribes and exchanging contracts with foreign officials (Meredith 2006). It became a common practice for the government to pay bribes to foreign companies in exchange for import licenses which amounted to 5-10% of the contract price (Commission of Enquiry 1964; Herbst 2000). Yet the government noted that this procedure was hurting potential new investors (Herbst 2000; Fieldhouse 1986; Ghana 1964).

At the time Nkrumah was in power, multinationals were politically weak and considered agents of imperialism. These companies had a weaker relationship with new African leaders than they had with colonial rulers (Herbst 2000). A company could threaten to withdraw its investment, but this did not seem to be of great relevance at a time where new political leaders wanted to become independent from foreign companies and increase the role of the state in the economy (Herbst 2000).

Persistent scandals and corruption lead to a coup in 1966 which deposed Nkrumah and brought Busia to power (Meredith 2006; Krafona 1995; Woods 2007). Under Busia food suppliers were poorly managed, agricultural production reached the lowest level in its history and both education and health were badly affected by lack of funding (Meredith, 2006). In the 1970s Ghana sank into a deep crisis which undermined the authority of the state itself; famines became more frequent and farmers were the most affected by poverty (Woods 2007). The country oscillated between military coups and civil rules until early 2000 (Whitfield 2009).

In 1981 Lieutenant Jerry Rawlings organised a second coup allegedly to clean up the corrupted political elite (Kwesi-Aning 2010). In 1983 the International Monetary Fund and the World Bank supported Rawlings in rebuilding the economy by reducing the role of the state in the Ghanaian economy and introducing austerity measures (Kwesi-Aning 2010; Meredith 2006). State control over the COCOBOD was reduced, prices of cocoa increased and farmers started receiving a higher price for their cocoa (Meredith 2006; Woods 2007). The macroeconomic results were miraculous and by 1986 cocoa production had increased by more than 40% (Meredith 2006). The economy grew by 6 percentage points thanks to manufacturing development and lower inflation rates.

Despite good macroeconomic indicators, under Rawlings' rule poverty persisted and external debt doubled (Meredith, 2006). Access to health and education remained unequal, especially when considering rural and urban areas (Anyinam 1994; Panford 1994; Brydon et al. 1996; Konadu-Agyemang 1998; Whitfield 2009). Health and education were privatised and unemployment spread across both the private and public sectors (Whitfield 2009).

In 1992 Rawlings allowed elections and ran as the leader of the National Democratic Congress (NDC). Rawlings won the election in a very controversial way (Whitfield 2009). Despite his claim to combat dishonesty, his party received accusations of being fraudulent and corrupt (Kwesi-Aning 2010). After being elected twice, in 2001 Rawlings stepped down, during the 2001 election the NDC lost power to the National Political Party (NPP) lead by John Kufuor.

The 2001 election set the basis for the operation of a two-party system. These two parties constructed an image of their political ideologies, nevertheless their policies since 1992 have not been different from one another (Whitfield 2009). '(W)hich pole political elites choose largely depends on historical affinities, family heritage, and political style' (Whitfield 2009:630).

The 2008 election brought the NDC back into power with John Atta Mills promoting a series of tax incentives to favour foreign direct investment (FDI) (Ryan 2011). Mills' government took a number of decisions which will have a long term impact on the country. The African Export-Import Bank lent US \$54 million to a Ghanaian company to build a cocoa beans plant for export (Mc Gregor 2012). Korea and Ghana signed an agreement whereby the latter

received a US \$122.7 million loan to improve water and electricity infrastructure within the country (Government of Ghana 2012; Ghanaweb 2012).

The last decision of Mills' government was the most controversial. Ghana accepted a US \$3 billion loan from China to be paid back with a supply of 13,000 barrels of oil per day for the next 15.5 years (Kwame 2012). Ultimately, Ghana will end up paying back US \$5 million more than was borrowed, as the price per barrel of oil is US \$107. The NPP and media are worried about the difficulty of supervising the deal and have made accusations of corruption (Kwame 2012). This loan will be used to build infrastructure under the Ghana Shared Growth and Development Agenda, however, the workers will be Chinese, not Ghanaian (Sackitey 2012).

The government of Ghana has been riddled with allegations of corruption since its independence and it still remains a problem affecting both the private and public sectors (Mensah et al. 2003). 44% of cocoa firms continue to make unofficial payments to public officials seeking public favours and recent video footage showed cocoa smuggling aided by state officials in Tema harbour (Mensah et al. 2003). However, a court discharged the 14 officials caught helping with the smuggling of cocoa to Ivory Coast (Aremryaro 2011). President Mills, speaking about the Tema harbour scandal, said:

'Look at the number of people who go to school under trees. Look at the number of people who cannot even have access to medical care. We need the revenue to be able to do that. And what is happening? The money you collect does not belong to you. It belongs to the nation and nobody has the right to appropriate what belongs to the nation'.

'This is the gateway. When people want to invest in Ghana they come to the gateway and they are met with corruption. Don't be surprised that today I am in an angry mood. And I have every reason to be angry. Look at the number of people who can hardly make ends meet. Look at the number of people who cannot go to school because we don't have the resources'. (Modern Ghana 2011)

Mills was underlining a very important factor, the link between corruption and poverty. He continues by explaining that poverty affects the lives of many children in Ghana who cannot get an education due to lack of resources. Education is one of the strategies used to prevent children from being involved in hazardous work in agriculture (ILO 2005). Yet Mills' very party has suffered allegations of corruption. Within the first year of its four-year term, NDC functionaries in the energy sector received US \$1 million in bribes from the company TAQA

(Ghana Pundit 2011). The company was authorised to triple its output under the condition that prices would be inflated and the surplus paid to the officials (Ghana Pundit 2011). In the same year Mr Nyame-Coker, Ho-West Constituency Chairman of the NDC, used his political influence to win a contract to build classrooms under the project 'School Under Trees' (Agbewode 2011). Mr Nyame-Coker passed the contract to the contractor Madam Ama Aloryitor, who offered GHS 1000 to buy the tender document and a 10% kick-back (Agbewode 2011). These events should not come as a surprise. In fact present and past governments have often passed up opportunities to prosecute public officials accused of corruption, despite strong evidence. Neither should it come as a surprise considering the list of appointees who have faced or are still facing prosecution for financial misappropriation under the former Mills government (Ghana News 2011).

Corruption remains a problem in Ghana, yet parties involved in cocoa partnerships never dare to address the issue as it would put trust and dialogue (the basis of partnerships) at risk. Despite the incredible economic growth over the last decade, huge pockets of poverty still exist in Ghana and there is little investment in public health and education. Political elites and state officials play a pivotal role in channelling and controlling revenue from the cocoa, electricity and oil sectors.

In a country experiencing steady economic growth, financial aid is still seen as way forward to compensate for missing funding. Moyo (2010:37) in her provocative book 'Dead Aid' clearly demonstrates how aid in Africa has become a cultural commodity which has permeated every aspect of the economy. Moyo (2010: 48-49) concludes that aid advances can promote corruption because they are susceptible to theft and give opportunities for personal accumulation, because 'corrupt governments interfere with the rule of law'. During my interviews the government of Ghana was always defended for efforts made to reduce child labour and support cocoa farmers and also justified for not contributing more due to a lack of funding.

As Green and Ward argue, 'a class that depends upon its control of the state to expropriate resources for itself is incapable of articulating a hegemonic conception of the public interest' (Green and Ward 2004). In this context structural adjustments and austerity measures do not always succeed in correcting bad policies by limiting the role of the state; rather they can worsen corruption and misgovernment (Green and Ward 2004; Moyo 2010). For all these

reasons, neglecting the element of corruption is highly counterproductive for the purpose of legal advancement and poverty relief.

Partnerships offer a space for the accommodation of conflicts and for reciprocal understanding. In this space different parties learn about other organisations' points of view and develop a sense of affection and understanding towards the outlook and goals of 'the other'. Under these conditions hot topics are avoided. This is especially the case when such topics could result in the dialogue degenerating into conflict or, offending the other partner, which is well known and respected after many years of joint collaboration.

In order to avoid certain topics, the ultimate aim of partnerships remains the pursuit of profit. Employees of companies and NGOs interviewed noted that the way forward in fighting poverty and child labour is to increase farmers' earnings. As Camaroff et al. (2012:159) put it: 'capitalism (is) invested with a salvific force, with an intense faith in its capacity, including the lot of the most marginalized, immiserated, and disempowered'. Thus, faith is placed in capitalism to deliver wealth for all (Camaroff et al. 2012).

A member of PubOrg 2 pointed out, however, that increasing farmers' income will not suffice in tackling child labour:

'increasing the production of a farm does not necessarily mean that the household has greater income, I mean that if a household has greater income, that that income is used in a way that the children of the household that lead to a reduction of child labour and increase schooling. This is a hope. But only increasing production does not confirm that this will occur'.

Eliminating hazardous child labour is a complex task and it requires 'government and policies aimed at promoting adult employment, raising incomes and improving living standards' (ILO 2005:21). Moreover, public services are needed to reduce the vulnerability to which children in rural areas are exposed on daily basis (Agbu 2009). To provide such services, public spending is needed.

Partnerships' members put aside questions regarding funding mismanagement and taxation malpractices to avoid conflict. However valuable resources continue to be misused and lost, ultimately hindering better governance and the effectiveness of human rights.

I do not wish to argue that low income does not constitute an obstacle to poverty alleviation and child labour elimination. However, I believe that the discourse on poverty is overly simplified and linked to poor legal efficiency in a superficial way.

The second part of this chapter will explore the legal context around child labour. It presents the international and national legal framework in Ghana on child labour as well as highlighting its causes.

PART TWO: INTERNATIONAL AND NATIONAL LEGAL FRAMEWORK AND THE GLOBAL DEBATE ON CHILD LABOUR

Although the practice of child labour is rooted in the history of all countries, in the 1980s it became an issue at the centre of a worldwide public debate (Pertile 2008; Nesi et al. 2008). In addition, the progressive expansion of compulsory primary education meant that child labour became an obstacle to global education development (Meknassi 2010; Teklè 2010). Public opinion has since shifted from concerns about the management of child labour to seeking its prohibition (Meknassi 2010; Teklè 2010).

The fight against child labour has been perceived by some as an ethnocentric attitude imposed by industrialised countries (Boyden 1997; Trevor 2010). However international public opinion shows a strong interest in addressing the issue and a wide range of stakeholders (NGOs, international organisations, trade unions, corporations and governments) began promoting initiatives to tackle the child labour, especially its worst forms over the last decade.⁷⁹ Despite its profile being raised in the 1980s, the topic had been identified as a problem earlier on.

The 1919 preamble of the ILO Constitution refers to the importance of protecting children and the Convention No. 5 on the Minimum Age of Industry Workers was adopted this same year (Pertile 2008). The 1924 Geneva Declaration on the Rights of the Child states in Principle 9: 'The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development'. In 1966, the International Covenant on Economic, Social and Cultural Rights

reported: 'Children and young persons should be protected from economic and social exploitation' (UN 1983). In 1970 the Governing Body of the ILO realised that the existing Convention on Minimum Age was not leading to the successful elimination of child labour and that the practice continued to be widespread. A major revision took place leading to the adoption of the Minimum Age Convention No. 138 in 1973, which revised earlier minimum age instruments and has ratified by 155 countries to date (ILO 1971).

The Minimum Age Convention No. 138 applies to all sectors of employment, although some exceptions are permitted. These are not stated in the Convention, nevertheless during the preparatory work of the Convention, specific references were made to housework, family undertakings and domestic service. The existence of these forms of employment was fully acknowledged, but reference to them had to be made due to difficulties of enforcing the law in those circumstances (Lansky, 1997). This is particularly relevant for West African countries, for example, where child labour is mainly found in agriculture.

This Convention seeks the elimination of child labour but it acknowledges that developing countries would face a number of obstacles if this was to be achieved and this is why it contains programmatic measures, which aim at accomplishing progressive elimination of child labour. Convention No 138 therefore establishes various minimum ages, depending on the type of employment and work performed, that are summarised in the following table

TABLE 4 MINIMUM AGE FOR EMPLOYMENT

	General rules	Where the economy and educational facilities are insufficiently developed
General Minimum Age (Art 2)	Not less than the end of compulsory schooling, 15 years or more	Initially not less than 14 years
Light work (Art 7)	13 years	12 years
Dangerous work (Art 3)	18 years (16 years under certain conditions)	No exception

SOURCE, ILO 2010.

The ratifying country shall specify in its declaration appended to its ratification the general minimum age for admission to employment or work within its territory.

In 1999 the general acknowledgment that little had been achieved regarding global child labour elimination lead to the adoption of Convention 182 on the Worst Forms of Child Labour. Convention 182 highlighted the urgency of eliminating at least the worst forms of child labour. For the purpose of this Convention the term 'child' shall apply to all persons

under the age of 18, independent of the country's level of development. Article 3 defines the worst forms of child labour as 'all forms of slavery, such as the sale and trafficking of children, debt bondage and selfdom, forced or compulsory labour, including recruitment of children for use in armed conflict' (Article 3 (a)). This is 'work, which by its very nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children' (Article 3, d). In Article 4, the Convention makes specific reference to the role of employers' organisations and trade unions since the Convention provides that work shall be determined by national laws and regulations or by the authorities, after consultation with social partners. The Convention refers to the importance of setting effective time limits for the implementation of integrated and coordinated policies and programmes combating and preventing the worst forms child labour.

Governments have a major responsibility to protect their citizens and create opportunities to access education (Lansky 1997). In Ghana, the major economic activity, as noted earlier, is agriculture and inevitably, children are more involved in this type of business (Agbu 2009). Mostly, children living in remote rural areas work unpaid to support their families. Ghana has made considerable efforts to deal with the worst forms of child labour in the country. In 2000 Ghana ratified the 1999 ILO Convention for the Elimination of the Worst Forms of Child Labour.

Though the government of Ghana has not ratified the 1973 Minimum Age Convention, its provisions are reflected in the Constitution and the Children's Act. Section 27(2) of the 1992 Constitution requires the provision of childcare facilities whereas section 28 covers children's rights, including the right of the child to be protected against physical and moral hazards. Section 28 also states that:

*'Parliament shall enact such laws as necessary to ensure that (2)
Every child has the right to be protected from engaging in work that
constitutes a threat to health, education or development'.*

To fulfil this article of the Constitution, in 1998 the government enacted the Children's Act, No. 560. This Act provides that the minimum age for a child to enter the labour market is 15 years for general employment, 13 years for light work⁸⁰ and 18 years for the worst forms of

⁸⁰ Light work does not affect the child's attendance at school and does not harm his/her health and development.

child labour.⁸¹ Section 89 allows children between 15 and 17 years of age to engage in light work, but does not provide any means to monitor the conditions under which these children work. The Children's Act provides that a person who contravenes these provisions commits a criminal offence and will be 'liable on summary conviction to a fine not exceeding GHC 500.00 to a term of imprisonment not exceeding one year or both'.

The issue of child labour in cocoa farms mainly relates to rural areas in West Africa, where access to running water is scarce, land is already cultivated into farms and individuals and roads do not connect remote villages to schools (Agbu 2009). The country baseline⁸² of Ghana (2010) reports the difficulties of conducting thorough labour inspections due to a lack of staff and poor equipment available for this purpose. In addition, many African governments have raised concerns regarding the lack of appropriate training and funding for its labour inspectors.⁸³ All participants agree that the Ghanaian government has been doing a lot to eradicate child labour from cocoa farms and to promote better education.⁸⁴ Nevertheless, the problem continues to exist and one company pointed out that the Government always complains of limited funding to tackle this issue.

In Ghana 46.7% of children were reported to have worked during the farming season in 2009. This involved spending four to eight hours per day performing dangerous activities such as carrying heavy quantities of cocoa beans to the pod-breaking points, using machetes to cut the pods open, carrying water, being exposed to agricultural pesticides and carrying fermented beans to drying points (ICI 2009). It is interesting to note that despite a high level of school enrolment in Ghana (88.5%), 54% of children assessed by the ICI could not read or write.

⁸¹ The worst forms of child labour are here defined as work that poses 'a danger to the health, safety and moral of a person', ILO Conv. 182.

⁸² The 1998 ILO Declaration on the four fundamental principles and rights at work foresees three follow-up procedures which aim at helping employers, workers and governments to achieve the goal set by the declaration, which is the goal of universal ratification of the fundamental conventions of the ILO as has been fully explained in Chapter 2. One of the strategies adopted is the Annual Review which collects country baseline reports from those that have not ratified one or more of the core conventions. This offers workers' and employers' organisations as well as Governments the opportunity to present the progress made and obstacles found regarding ratification of relevant conventions.

⁸³ Author personal participation in trainings of labour inspectors, NGOs, trade unions and an employers' organisation conducted at the International Training Centre of the ILO, Turin, 2009.

⁸⁴ Author personal communication with International Cocoa Initiative manager, 9th March 2010.

Western NGOs see child labour as being the result of poverty as well as socio-cultural and public service factors (10 Campaign 2011). The socio-cultural practices are presented as being a huge problem which need addressing (10 Campaign 2011). But as a Ghanaian trade union member explained, the worst forms of child labour did not come to farmers' attention thanks to Western campaigning:

'We have a proverb, before the child labour issue came to the public, the proverb says 'the child that does not break the back of the turtle, breaks only the back of the snail' because it is soft. This means that there are things that the child can do and things that he cannot do because they are children. The work we have done over the last ten years is to distinguish between child work and child labour. People think that when you talk about child labour, we talk about child work. Child work is culturally accepted because is a process of upbringing, but it is the same child work that can be abused to become child labour [...] Farmers do not understand the danger of pesticides or how to get good income. Farmers are the poorest'.

The Ghana Child Labour Survey in 2003 estimated that a large number of children were engaged in the worst forms of child labour such as domestic work, carrying heavy loads, sexual exploitation, mining, fishing, agriculture and servitude. There is an estimated population of 6.36 million children between 5 and 17 years of age in Ghana (GCLS 2003). 2.47 million children are economically active and 1.27 million can be classified as child labourers. Over 1 million of these children were aged below 13 years.

The Ministry of Employment and Social Welfare (2009) explains that child labour is caused by poverty, but the practice also perpetuates poverty because 'it breeds another cycle of people who most likely will be less well off or end up in poverty later' (Government of Ghana 2003). It leads to a vicious cycle where child labour is used as a coping mechanism to respond to income shocks and thus it is a topic to be analysed on different dimensions (Government of Ghana 2003).

Bendix (2001) explains that despite the European and American public being very sensitive to the use of children in employment, in certain cultures child labour is considered a family survival strategy that provides an essential contribution to family income. Europe has experienced similar issues surrounding child labour, but during the rise of industrial entrepreneurs against aristocracy in the 17th century in Britain, the use of child labour progressively disappeared (Bendix 2001).

When infant mortality rates are high, families produce more children and a large number of offspring increases the sustainability of the family (Bendix 2001). Under these circumstances a child is seen as a 'productive unit' (Bendix 2001:36). Therefore Bendix concludes that employers accepted child labour because contributing to the family's income had been normal practice for children historically.

According to Bendix, European families, prior to the 17th century, considered children as an 'economic asset' this is why birth rates remained high. But today they are considered as an 'economic liability' (Bendix 2001:40). When Britain began experiencing profound changes in terms of technology and production, child labour began to be seen as a cause of adult unemployment (Bendix 2001). Nevertheless, as the agricultural sector in Africa remains with few changes and the industry remains very labour intensive. In this context, eradicating child labour is a major obstacle.

CHILD LABOUR AS A MULTIDIMENSIONAL PHENOMENON

The practice of child labour is a multidimensional phenomenon, whose eradication might take considerable time. In fact, child labour has not only to do with the welfare of children themselves, legal implementation and public policy. It also has to do with the state of the world in which we live and this includes macroeconomic factors, trade practices and labour markets (Trevor 2010; Pertile 2008).

Despite the international community's condemnation of the use of child labour, a number of factors, which were revealed in all interviews I conducted, are considered to be contributing to the persistence of the practice. These include the vulnerability of children and poverty, both of which are particularly high in rural areas (Agbu 2009), as well as cultural and social practices (Pertile 2008).

Due to cultural and social factors, the simple elimination of children from the work place may prove to be extremely dangerous to children and their families (Pertile 2008). If the child is suddenly unable to contribute to family income, he or she may become exposed to worse forms of hazardous employment (such as prostitution or other hidden forms of employment) in order to make up for the loss (Anker 2000; Trevor 2010). The family may find itself

deprived of an important source of income, ultimately pushing households into greater poverty.⁸⁵

Banning child labour below the age of 15 in certain countries can result in child labour becoming invisible and therefore more difficult to identify (Meknassi 2010). In addition, conditions of poverty and vulnerability can result in families actively looking for jobs for their children, so they can gain marketable skills at an early age, while at the same time contributing to the family income (Agbu 2009). In an interview conducted by the BBC in 2007, a farmer described child labour in small village cocoa farms as being a way of family training. The farmer stated: 'No one is obliged to send a child to school. If you don't have money you don't go. You can't leave a child in the village. If you go to the farm and leave him behind, he will pick up bad habits. It is part of his education and he can also learn the technique of growing' (Ryan 2007).

Children are particularly exposed to the risks of hazardous labour when poverty (families with low incomes) is combined with poor infrastructure and public service provision. Agbu (2009) defines this combination of factors as vulnerability. In fact, research conducted by NGOs, international organisations and academics never managed to demonstrate a clear correlation between child labour and poverty per se. Instead, they found that the level of child labour increases dramatically for those who live in rural areas where infrastructure is limited and vulnerability is high (Agbu 2009). It follows that vulnerability can be exacerbated by poor public policy, which could devise a set of services (building roads, clinics, providing schools with trained teachers and suitable toilets) to reduce the impact of vulnerability.

By linking the practice of child labour to poverty, we neglect the point that child labour is also a problem in rich countries, as the table below shows.

⁸⁵ Personal conversation with members of TradeU 2 & 3, senior officers at ChokoComp 2, 3 & 4, NGO α & δ.

TABLE 5 CHILDREN IN EMPLOYMENT & HAZARDOUS WORK

	Children in employment (‘000)	Children in hazardous work (‘000)
World	305 669 (19.3%)	115 314 (7.7%)
Asia & Pacific	174 460 (20.4%)	48 164 (5.6%)
Latin America & Caribbean	18 851 (13.4%)	9 436 (5.6%)
Sub-Saharan Africa	84 229 (32.8%)	38 736 (15.1%)
Other regions	28 129 (8.4%)	18978 (5.7%)

SOURCE, ILO 2010

In many industrialised countries child labour persists. In the USA 300000 children are estimated to be working on commercial farms (Boston Globe 2002). In Italy and Portugal, 145000 and 35000 children are economically active (ILO 2004; SIETI 2001; ISTAT 2002). By linking the practice of child labour to poverty only, we imply that child labour is forced, rather than a deliberate choice taken voluntarily by children and families (Pertile 2008; Basu 2004). The concept of *vulnerability* refers to families who live in poverty without access to social protection and services. Child labour is, therefore, linked to vulnerability (Agbu 2009), which derives from poor infrastructure, inaccessible schools, expensive school fees, low income and inadequate social protection. But it is also linked to unstable and unreliable sources of income, which leads families to mitigate risks by engaging all members in income generating activities (Bendix 2001; Trevor 2010). These problems are particularly high in rural areas, ultimately increasing both the demand and supply of child labour.

Cocoa farms are mostly in remote rural areas where services are rare or completely absent (Agbu 2009; Ryan 2011).⁸⁶ In addition, families often endorse agricultural child labour in an attempt to teach their children marketable skills that will increase their chances of employment or income generation when older (ILO 2007). As a result, due to the involvement

⁸⁶ Personal communication with senior representatives at NGO8 and ChokoComp 2, 3, 4 & 5.

of parents as their employees, labour inspection and legal implementation of child rights becomes particularly complicated in this context (Teklé 2010).

For all the above reasons, the idea of eliminating child labour conflicts with what families want and what they actually have, as well as the state of the world. In fact, the present economic system which dominates world markets encourages large companies to invest in countries where governments offer lower labour standards (Pertile 2008; Korten 2001; Trevor 2010).

Clearly the causes of child labour are numerous and it is difficult to find a single stakeholder responsible for the practice (Pertile 2008). This does not mean that companies should neglect the supervision of their supply chains. However, the role that companies and also civil society actors play should not overshadow the responsibilities of the government of Ghana.

Governments have an obligation to provide a good education system and infrastructure to support it though they often fail to do so (Lansky 1997; Ruggie 2011). Child labour could be better regulated by improving living conditions and infrastructure such as rural roads and water supplies, reducing the cost of access to education and slowly moving towards a reduction in supply and demand of child labour (Meknassi 2010). This, however, requires action in terms of public service provision and supervision of legal compliance.

So far I have presented what are claimed to be the causes of child labour. I now intend to examine the causes of poor legal efficiency to protect children from hazardous employment in Africa.

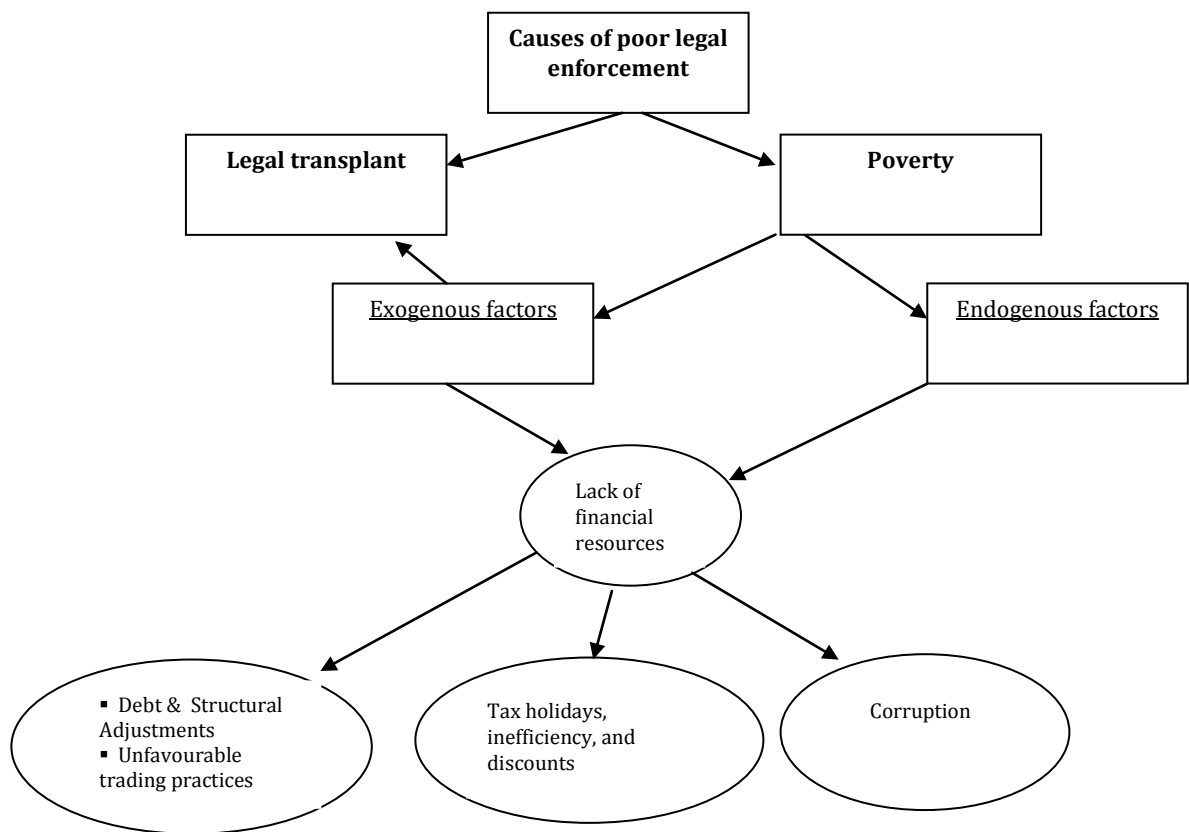
PART THREE: CHILD LABOUR LEGISLATION - THE RISKS OF LEGAL TRANSPLANTS AND THE INEFFICIENCY OF LABOUR LAW IN AFRICA

During my research interviewees identified a number of causes behind poor legal enforcement. One of the causes is poverty, yet interviewees referred incessantly to poverty without looking in detail at the exogenous and endogenous causes.

Causes of poor legal enforcement were indicated as being: scarce financial resources resulting in fewer labour inspectors and a lack of education, social and health services, as well as inadequate infrastructure such as roads, schools and sanitation. These were defined as

being causes of poor legal advancement and they are the consequence of a broader analysis of poverty, which includes exogenous and endogenous factors that will later be discussed.

I want to suggest that there are two factors that lead to poor human rights enforcement and hence advancement in relation to labour rights, including those of children. These factors are legal transplants of a foreign legal system to Africa as well as poverty. I intend to analyse poverty in a different way and explain its links to poor legal advancement. There are two categories of causes of poverty: endogenous and exogenous.



The map above summarises the way I intend to examine the causes of poor legal enforcement in relation to child labour. Causes of poor legal enforcement fall mainly into two categories: legal transplants and poverty.

I will argue that – in addition to both exogenous and endogenous causes of poverty already mentioned by interviewees - the government of Ghana contributes to poverty by failing to maximise tax revenue collection via the granting of tax holidays and discounts and by failing to reduce tax leakages as well as corruption. The issues of taxation and corruption are not

addressed by partnerships. I have already presented this issue in the second chapter, where I highlighted how civil society has failed in presenting the relevance of these two factors. At this stage I will illustrate how the inefficiency and enforcement of legislation is also related to the binomials poverty-taxes and poverty-corruption.

LEGAL TRANSPLANTS AND THEIR CHALLENGES

When it comes to the African continent, human rights must be considered in relation to its history, economic development and relationship with Western culture. Cotterrell (1984), Aubert (1966) and Teklé (2010) have identified two factors behind poor legal enforcement. Legal enforcement remains weak when law is not comprehensive and appropriately tailored to those it is designed for as well as when the enforcement machinery is weak.

Following the second world war a set of 'universal values, human rights, gained strength, no thanks to the use of force, but on the basis of the capacity to present force as being in the service of right and peace' through means of a widespread 'consensus that support its own power' (Hardt et al 2001:15). After the second world war:

'how the state treats its own citizens can thus no longer be regarded as a purely internal matter for the government concerned. The behaviour of rulers have in many cases [...] been modified by a combination of pressure and persuasion from international organisations, transnational advocacy networks, foreign donors and opposition groups'. (Held 2005: 9)

States became legitimised through moral and legal lenses, which referred to the respect for democracy and human rights (Beetham 1998; Held 2005; Risse 1999).

Globalisation has favoured the universalisation of human rights and international NGOs have become the major exporters of such (Hardt et al. 2001). Their claim is that human rights are derived naturally (Mutua 1996, Henkin 1999). Globalisation has changed the world from a technological, political and economic point of view. This followed the 'acceleration, massification, flexibilisation, diffusion and expansion of transnational flows of people, products, finance, images and information' (Beerkens 2004:13). Hervey defines this process as the 'time-space compression of global interaction' (Hervey 1990:23), where the globalisation of the economy, international law and global justice has shaped the world we live in (Held 2005). In this framework, international law has reshaped power, constraints, rights and the duties of the states, ultimately reaching a great development and often

international law showed indifference to the different national political organisation (Held 2005).

Despite the universalisation of labour rights and human rights, legal enforcement in Africa remains weak since it is not always tailored to the specific reality. Labour law in Africa has been shaped by the colonial legal model, ultimately creating a mismatch between reality and law (Teklé 2010). For example, what, according to labour law in industrialised countries is defined as informal employment, in Ghana is formalised through a traditional social system and local structures such as the family and the village chief. A member of TradeU2 explained:

'You need to formalise what happens at the family level? It is already formalised traditionally. Me, I combined family work, family business and studied, but I was never exploited, because my family was there to guide me. The problem arises when children are away from their families and work'. [...] 'The chief is the law, is the most powerful person in the community. This is because you work with communities and if you work with the chiefs and the chief says that as community we are going to respect child rights, everybody is going to respect that and you do not need a national law. [...] They have their own sanction system, paying with a bag of gnam, they have their own shame and name system'.

Therefore one of the primary reasons that labour law enforcement is weak in Ghana results from the fact that the law itself was transplanted from a foreign legal system (Kahn 1974; Teklé 2010). Originally, the absence of Western socio-political underpinnings was not considered to be a problem since industrialisation was the development path that poor countries wanted to pursue (Teklé 2010). However, as already demonstrated, the majority of workers in many African countries, including Ghana, live in rural areas, far away from big industries or formalised work places (FAO website – Database information).

This is the case in many developing countries, where labour law was formally transplanted during colonial rule and maintained by the ruling class after independence (Teklé 2010). This is not the only issue human and labour rights face when being applied in Africa and where, for example, the chief still remains the main source of law, particularly in villages⁸⁷

Kahn (1974) calls for caution when applying a law from one society within a different environment, as the outcome could be rejection. Teubner (1998) discusses this issue further by arguing that 'irritant' is a more appropriate term than 'transplant'. When laws and

⁸⁷ Personal communication with a member of TradeU2

institutions are imported from one system into another, he claims it leads to neither rejection nor acceptance, but instead results in co-evolution or unexpected outcomes (Teubner 1998; Teklè 2010). Ghana provides an example since national law prohibits child labour, but this conflicts with local practices and realities. Enforcing the law can create risks where child labour can be pushed into more invisible niches of employment, such as the informal sector and family subsistence farms, where children can be exposed to the worst forms of child labour (Teubner 1998). The law in many West African countries has failed to protect children from hazardous forms of employment due to the failure of the state in enforcing the law and the existence of different societal views of child employment.⁸⁸

The ability of the law to be effective depends to a considerable extent on the subjects of the law, the members of society itself and also the strength of the state and its institutions. The present research supports Teklè's and Cotterrell's analysis according to which a set of variables influences the success of labour law application. These variables are described as 'socio-political structure, the state legal framework (beyond labour law), the legal culture, non-state regulatory systems and social norms, and the economic and ideological environment' (Teklè 2010:11).

The main problem faced by workers in developing countries therefore stems from 'the discrepancies between the realities of the world of work and the socio-economic assumptions that constitute the foundations of labour laws' (Teklè 2010:13). In fact, conventional labour law has been shaped around a typical western employment model, which does not always reflect the realities of employment in poor countries (Teklè 2010). For example, self-employment is widespread in West Africa and most children in Ghana are engaged in the informal sector (domestic work, family chores and household farms) where implementation of the law becomes even more complicated. In fact, when children are involved in family activities or work to contribute to their family's wages, the application of the law becomes controversial as citizens could see it as interfering with the private sphere where social norms and customs prevail (Teklè 2010).

Risks may arise when legal norms and institutions are 'transplanted' from external models ('legal transplants'), for example, this practice can sometimes result in the inefficiency of the

⁸⁸ Child labour in the agriculture sector constitutes one of the worst forms of child labour as it exposes children to a range of health hazards. These include muscular-skeletal injuries, injuries from dangerous tools, skin abrasions and tumours caused by excessive exposure to the sun (ILO 2007).

law itself. Consequently, the inefficiency of law results from 'mutual indifference', when links between the law and the social system are weak (Teklè 2010; Watson 1993). Thus when law is not tailored to those it is designed for (Teklè 2010), and when society's values and principles are not represented by the legislation (Cotterrell 1984, Marmor 2007) the subjects of law might decide not to comply (Raz 1972; Austin 1832).

The implementation of law is not the result of one individual power but the compromise resulting from the negotiation of interests between different sources of power (Cotterrell 1984). Law is a normative social practice which aims at guiding human behaviour and controlling social relations through institutional arrangements (Cotterrell 1984; Marmor 2007). Institutional arrangements are not always to be associated merely with the state (Cotterrell 1984). This is particularly evident with the creation of partnerships which are an example of an institutional arrangement created to tackle a labour issue such as child labour. Partnerships even go further than ensuring legal compliance, when ensuring legal efficiency through the provision of public policy. Preliminary observations show how certain elites, be these civil society actors, international organisations, governments or companies, do play a role in promoting public policy.

International law has been criticised by comparative jurists and African lawyers for being Eurocentric and consolidating a regime of subordination of poor countries (Moeckli et al. 2010; Mutua 1996, 2000; Teklè 2010). In Western society, law is seen as a means aimed at moving towards stability, based on a consensus of certain social norms which set the rules of the game (Cotterrell 1984; Mann 1970; Dowse et al. 1972). Over the twentieth century, the law acted as an instrument to shape certain beliefs and attitudes and to enforce certain moral values within all members of society (Cotterrell 1984; Devlin 1965). This process has not occurred in African countries, which simply adopted a foreign model.

As of today, the African continent is characterised by modern and traditional elements of society which uncomfortably coexist (Heyns et al 2010). Consequently, African elites seem to be suspended between African and foreign traditions, where traditional pre-colonial moral concepts are lost (Moeckli et al. 2010; Mutua 1996). For the above reasons the African Charter tried to unify community and individual rights and duties of the family with duties of the state, but it remains merely an attempt (Mutua 1996).

Many Africanists have demonstrated how human rights norms existed in pre-colonial Africa, for example the concept of due process and rights to political participation, freedom of speech and association (Mutua 1996). However, Africa did not take part in the creation of the Universal Declaration of Human Rights that provided the road map to develop the jurisprudence in human rights (Mutua 1996, 2000).

THE CHALLENGES OF ENFORCING CHILD RIGHTS IN GHANA

Concepts of human dignity, prohibition to harm someone and benevolent governance, which underlie the modern idea of human rights, are also present in the African society (Moeckli et al. 2010). Nevertheless, what differs enormously from western society is how human rights are enforced since in African countries the enforcement system is either not well developed or absent (Heyns et al 2010; Moeckli et al. 2010). The process of implementing human rights, and particularly labour rights, has encountered a number of challenges in non-Western countries (Teklè 2010). One such challenge posed to effective human rights enforcement in African countries is the concept of personhood. Every juridical foundation and every juridical system is in some way a crystallisation of a specific set of values (Hardt et al. 2001). It is difficult to find a single definition of personhood which is common to all African countries. Menkiti (1984) attempted to find common denominators. In Western society a person is seen as such simply for having been born of the human seed, therefore for having qualities such as memory, soul, rationality, will etc.. (Menkiti 1984:172). Whereas, 'in the African view is the community which defines the person as person, not some isolated static quality of rationality, will and memory' (Menkiti 1984:172). Thus, in Africa, a person is considered as such only when he or she is incorporated into a community. 'Personhood is something which has to be achieved, and is not given simply because one is born of human seed' (Menkiti 1984:172).

Ultimately Menkiti concludes that the difference between Western and African countries lies in the process of personhood attribution, which in Western society moves from the individual to the society and in Africa moves from society to the individual. A 'man' in African society gains validity as part of the group in the spirit of solidarity. It is the group, the community, which attributes the state of personhood to the individual (Menkiti 1984; Mutua 1996; Kiwanuka 1988). Ultimately all members of the group contribute to its survival. This is a very important point which needs to be acknowledged when talking about human rights in Africa.

This is not to say that human rights do not have a place in traditional African society or that children are not considered persons.

It is clear therefore, that African culture needs to be acknowledged if the problem of legal efficiency in regard to human rights is to be understood fully (Teklè 2010). The concept of the autonomous person is a European invention; nonetheless individuation in Africa is not an inherent characteristic of men (Menkiti 1984). What makes a man such is his or her relationship with his or her surrounding, as autonomy can be attributed to personhood but yet personhood will never be ontologically autonomous (Camaroff et al. 2012; Mauss 1990; Butler 2004).

The concept of personhood is central to human rights in Africa, yet the European concept of personhood has been evolving towards Africa ultimately creating a conflict between values (Camaroff et al. 2012). Thus some communities may find themselves trying to identify common social norms, while endorsing external values which conflict with those principles that have always guided their daily lives (Mann 1970).

When it comes to labour rights in rural areas, and more specifically in relation to cocoa farms, also family relations come into play. In fact, in these circumstances the 'worker' and the family employing him or her share a home and live together. These conditions are such that the 'worker' is scarcely perceived as an employee, which has the effect of placing the latter outside the law (Meknassi 2010:61).

Teubner (1993) offered an interesting insight into the issues surrounding legal efficiency - his contribution becomes particularly interesting when looking at legal transplants in Africa. He argues that the social world is composed of different systems of communication, each of which has its own structure, logic and process. These systems of communication interfere with each other and these interferences are inevitably interpreted differently by different categories in each of the systems (Teubner 1993). Teklè (2010) goes further in this analysis by stating that inefficiency of law results from 'mutual indifference', when links between the law and social system are weak. Mutual indifference can result in poor cooperation of society and the law (Teklè 2010; Watson 1993; Kahn-Freud 1974).

Labour law requires that a body of regulatory agencies be effective and ensures legal enforcement; however, these are not always apt to the context (Cotterrell 1984, Teklè 2010).

Enforcement agencies such the Ministry of Employment lack funding to either supervise compliance with the law or to promote and oversee the provision of public services such as education, healthcare and the building of roads and enforcement becomes particularly complicated in rural areas as the case of cocoa farms demonstrates (Meknassi 2010; Teklè 2010). The inadequate system of labour inspection was also explained by one interviewee in these terms:

‘Sometimes I wonder if using labour inspectors in that particular context may be the way to go about it as opposed to probably partnering with the Ministry of Food and Agriculture and working more directly with extension officers, who go to the farms anyway and possibly encourage and strengthen their work by adding some monitoring labour role to their work and develop some indicators for them to report on. Rather than sending inspectors. If you send an inspector to a cocoa farm, they won’t find anything, because if you are wearing blue blinds, you only see blue’. (Member of cocoa partnership) (PPP’s leader)

And in fact, as a company representative explained, extension officers are widely present on the ground, as result of a coordinated action with COCOBOD, which makes it:

‘possible for business (to have) a point of reference at district level. You put a person in each district; business sponsors an extension agent who will coordinate COCOBOD’s programme and supply of all activities. The extension agent is hired by COCOBOD but paid by business’.

Thus labour inspectors are described as often lacking appropriate training on labour inspections to carry them out effectively and they can even lack practical necessities such as transportation to reach different working locations.⁸⁹ As such, they fail to report information effectively, which caused the Committee of Experts in 2010 to lament the lack of information regarding inspections and means available in Ghana.⁹⁰ The above interviewee also highlight how labour inspectors are not heavily present in rural areas, whereas members of the Ministry of Agriculture could leverage their presence and knowledge of the area to monitor labour rights, even if this task does not fall in their mandate.

Another element which might affect the result of inspections is what I would call ‘affection’. For law to be effective, enforcement agents must commit and believe in the values brought

⁸⁹ Personal communication with the manager at PubOrg 2.

⁹⁰ Committee of Independent Expert Advisers, 2010, Individual Observation concerning Labour Inspection; Personal communication with senior officials at PubOrg 2 & 3.

forward by the law (Cotterrell 1984). But inspectors in Ghana most of the time have themselves worked in rural areas, and are farmers' children, therefore they know very well the reality this entails.

Thus the regulatory agency for labour inspection might easily hire people that have experienced farming life or have some familiarity with it at least. These experiences create a sense of affection towards farmers. I am clearly not talking about those farmers accused of enslaving children trafficked from other regions; in some of these cases the government has prosecuted the traffickers (Panorama BBC).

To conclude, in workplaces located within the family unit and small farms, enforcing the law is challenging for multiple reasons (Ministry of Employment 2009).

First, the family, where occasional or provisional labour occurs, indeed produces economic value for itself, however labour law fails in adjusting to local conditions of employment (Meknassi 2010). Second, when children are involved in family activities or work which contributes to their family's wages, the application of the law through the means of inspection becomes controversial as it could be thought to interfere with the private sphere where social norms and customs prevail (Teklè 2010). Thirdly, farmers are aware of the risks of child labour allegations which makes inspections even more challenging. A group sustainability advisor of ChokoComp 2 argued that in his experience, approaching a farm without being noticed first is very difficult, thus hiding children from people's view can be easier than one might think.

Through the establishment of partnerships, NGOs, companies and public actors took coordinated steps to ensure human rights advancement in Africa. Yet these did not necessarily guarantee better living conditions for all, since, as dominant schools suggest, human rights should be promoted and protected by the state to determine a profound change at the national level (Comaroff et al. 2012; Mutua 1996; Ruggie 2011; 2013). In fact, partnerships can only operate on a small and limited scale (Utting 2005), ultimately having a limited impact (Comaroff et al. 2012; Mutua 1996).

Since the second world war international NGOs have played a major role in this advocacy movement and the exporting of human rights, presenting themselves as defenders of legality (Hardt et al. 2001; Mutua 1996). Preliminary observations show that NGOs have contributed to shaping the way companies look at human rights and poverty, companies even seem to

devise strategies 'NGO style' to provide solutions. During my interviews with employees of companies, all used the 'NGO language' referring to grassroots, livelihood etc. International companies and NGOs do take decisions about projects which affect the advancement of human rights in Ghana. In the name of grassroots movements, decisions taken at higher and international levels manage to shape forces which transform local realities towards human rights and democracy advancement (Comaroff et al. 2012).

NGOs were leaders in running campaigns against companies accused of violating human rights in their business practices (Utting 2005). NGOs asked businesses to do more in terms of poverty relief and compliance with human rights. Many companies' profits today are higher than that of many countries; this is why the international community has called for greater regulation over multinationals' behaviour. Bantekas (2004) argued:

Since the addressees and bearers of human rights, labor, and environmental obligations under traditional treaty and customary international law have been States, MNEs have been able to hide behind the State 'veil,' asserting that whatever violations under international law the host State had committed were attributable to the State – the MNEs being non-State actors with no legal personality to bear rights or duties under treaty or customary law (2004:311).

A recent trend sees NGOs together with businesses playing a significant role in advancing and enforcing human rights in Africa through the means of partnerships (Bäckstrand 2006; Utting 2005). Many big NGOs offer their expertise in international development to support businesses in their relevant activities (Bäckstrand 2006).⁹¹ In this game of partnering businesses and NGOs, however, the latter forgot to question the underlining causes of poverty – exogenous and endogenous - merely focusing on the effects of poverty (Mutua 1996; Steiner 1991; Wallace 2008). The former played along, trusting the NGOs' expertise and designing and implementing projects inspired by NGO traditions.⁹²

Despite partnerships' efforts, labour law remains particularly difficult to enforce amongst domestic workers, small enterprises and rural workers who are widely spread in Africa (Meknassi 2010; Teklè 2010). In these cases, legal enforcement becomes particularly challenging. In fact the legal framework of reference is developed having in mind wage

⁹¹ Personal communication with senior officials at ChokoComp 2, 4 & 5.

⁹² Personal communication with senior officials at ChokoComp 2, 4 & 5.

employment, in countries where the majority of employment is in the informal sector (Meknassi 2010).

LAW INEFFICIENCY AND THE MISSING POVERTY-TAXATION AND POVERTY-CORRUPTION BIONOMIALS

So far, legal inefficiency has been explained in terms of transplants and inadequate or understaffed enforcement machinery. But here, I will look at the problem of poverty as a cause of poor legal enforcement and efficiency.

The provision of public services is a fundamental condition (together with efficiency)⁹³ to guarantee efficiency of the law (Agbu 2009; Cotterrell 1984). Similarly, the availability of funding through the regular national budget guarantees enforcement (Cotterrell 1984). Poor service provision and a lack of funding for legal implementation in Ghana occur due to poverty, including a lack of financial resources available.

Respondents of this research referred to endogenous causes of poverty as being related to poor labour skills, a lack of education and the absence of roads and schools etc. None of the respondents of this research alluded to the potential link between poverty and the tax breaks which are granted to cocoa corporations, taxation inefficiencies and the widespread practice of corruption. These are three major factors contributing to poverty and poor public service delivery, thereby playing a role in exposing many children to vulnerability (Agbu 2009; Mutua 1996; Prichard 2009; Ryan 2011).

Research demonstrates that high levels of corruption and the taxation system which favour foreign investments in Ghana has negative impacts on the quality of the services delivered as it diverts resources from where they are needed and increases pressure on the government's budget (Chetwynd et al. 2003; Green and Ward 2004; Moyo 2010).

A weak tax system and the existence of corruption ultimately erode a state's governance capacity with escalating effects on poverty and income inequality which have a direct impact on child rights (Chetwynd et al. 2003; Green and Ward 2004). For example, the IMF suggested that the Ghanaian government source more revenue through the imposition of a higher

⁹³ The power of government when supervising compliance with the law (Cotterrell 1984).

corporate tax (OECD 2012), a suggestion that the government did not follow. As a member of a partnership explained:

'I think there is the belief that you can have a vertical approach to cocoa, and you are going to eliminate child labour which is the function of poverty. Behind poverty there are all sorts of issues: governance, economic performance, insecurity, all these sort of dynamics. Going back to your original question: does the government of Ghana do enough? In maintaining a system, they are very stubborn, they had a lot of pressure in the 80s-90s with the structural adjustment programme and to dismantle their centralised marketing system, but they maintained it.[...] Let's not forget that cocoa is a massive exporter earner for the Ghanaian government. They get resources and they get revenues out of cocoa'.

As the above statement indicates, exogenous factors have played a big role in contributing to poverty in Ghana. These factors date back to the 80s. Exogenous factors comprise imposed structural adjustment programmes and western legal systems, unfavourable trading practices and high levels of debt (Agyemang 1998; Amin 1974; Frank 1975; Konadu-Onimode 1982; Ryan 2011; Rodney 2009; Wallerstein 1974). High level of debt represented a major obstacle to the economic performance of Ghana. The country was also cut off from financial resources that were needed for infrastructure developments until most recently when loans came from China and Korea (Government of Ghana 201; Osei 1995; Simpson 2010:4; Kwame 2012).

In order to bring the African economy into shape, since the 1990s the IMF and the WB have encouraged macroeconomic policies which foresee the adoption of the neo-liberal model and the so called Washington Consensus. This model included fiscal discipline, tax reforms, privatisation and deregulation, trade liberalisation, liberalisation of inward foreign investments, liberalisation of interest rates and cuts on public expenditure (Park and Vetterlein 2010; Stiglitz 2002). These reforms have resulted in many African countries suffering higher levels of poverty and only recently the IMF and WB have begun changing some of their policies (Norbrook 2013a).

Under Reagan's presidency interest rates soared by 20% (United States Bureau of Labor Statistics), having a devastating effect on African economies and causing external debt to jump from \$6 billion to US \$38 billion between the 1970s and the 1980s (Meredith 2006). In 1982 the debt increased to US \$66 billion and in 1983 it reached US \$86 billion (Meredith

2006). During these years many African countries lost their international competitiveness in absolute terms, they lost market share in their exports and they became incapable of gaining market share in new markets (Bayart et al. 1999). African nations were reduced to exporting raw commodities which unfortunately saw a dramatic decline in prices over the years (Bayart et al. 1999). This has not been compensated for by lower prices of imported goods (Bayart et al. 1999). During these years African exports experienced a lack of competitive demand and cocoa prices became volatile, while corrupt leaders aggravated the situation for local farmers by manipulating the benefits of cocoa production for their own gain (Meredith 2006).

African economies are integrated into global economies, but still under unfavourable conditions, making them dependent on Western countries (Roodney 2009). Farmers and the industries players see huge power differentials as most of the profit within the cocoa sector lies with processing the cocoa beans rather than the selling of the raw product to manufacturers (Ryan 2011).

Yet Africa as a continent has today become the new centre of capitalism - 'in its latest, most energetically voracious phase, (it) thrives in environments in which protections of liberal democracy, of the rule of law, of the labor contracts, of the ethics of civil society, are at the best, uneven' (Comaroff and Comaroff 2012:19).

During my interviews with companies and NGOs, poverty was always indicated as being the main cause of the worst forms of child labour. However the term poverty was mostly used to refer to the poor economic status of the household. Ultimately, the exogenous and endogenous factors which trigger poverty are overly simplified and not sufficiently analysed.

Endogenous factors are usually identified as poor education and infrastructure, as well as a lack of economic resources per se (Konadu-Agyemang 1998). These factors indeed play a role, but they seem to be the consequences of poverty rather than the root causes of it - as some interviewers indicate them to be - although they indeed contribute to the perpetuation of poverty (Agbu 2009). For example, poor education contributes to the spiral of poverty; nevertheless poor education is the consequence of lack of public policy and investment in this sector.

The analysis of endogenous factors that contribute to poverty needs further investigation. I will look at the endogenous factors behind the lack of financial resources available to the government of Ghana for legal enforcement and efficiency.

The eight NGOs of the 10 Campaign argue that the industry has benefitted from poor farmers' conditions for years and that as such, they should dedicate 0.01% of all their profits to rehabilitating and schooling children who were exposed to the worst forms of child labour (10 Campaign 2011). The same NGOs claim that all parties should work together to solve the complex issues related to child labour.

The 10 Campaign's NGOs explain the Ghanaian government's limited fiscal contribution to fighting child labour in terms of its status as a developing country. The role that the government should play in terms of governance, policy, how to more efficiently raise revenue, reduce corruption and bring about legal implementation is not addressed. The NGOs members of the 10 Campaign simply conclude that, due to the economic power of the chocolate and cocoa industries, companies should contribute more money than the government of Ghana (10 Campaign).

Five interviewees highlighted that the main responsibility of a government is to ensure public services can be provided to its citizens, funded by adequate tax collection.⁹⁴ However, only one interviewee (one manager of PubOrg 1) mentioned the loss of government revenue caused by tax incentives and discounts that many companies enjoy in Ghana. Yet tax discounts and tax holidays have serious consequences on the financial resources available to the Ghanaian government (OECD 2012). In addition, no one dared to refer to the loss of revenue caused by widespread corruption in Ghana. In fact, the issues of taxation and corruption are not discussed within partnerships, because these factors do not fall within their mandate and because they are sensitive issues which could hinder the foundation partnerships rest upon: trust and collaboration.⁹⁵

Africa today is not only a contemporary economic frontier, but also a new centre of capitalism, which thrives in conditions where democracies, the rule of law and labour rights as well as civil society remain uneven (Comaroff and Comaroff 2012). Foreign companies make the most of their returns in Africa and this is likely to increase considering that 75% of

⁹⁴ Personal communication with directors at PubOrg 1 & 2, ChokoComp 2 & 4, PPP1.

⁹⁵ Personal communication with directors at NGO8, PPP1 and ChokoComp 1.

companies have indicated the African continent is a region where they intend to invest in the upcoming years (The Africa Report 2011; Guo 2010).

Nonetheless, this growing interest in investing on African soil is not accompanied by a strategic tax system and governmental budget transparency that can benefit the country's revenue.⁹⁶ Besides, at the core of this neoliberal system lies the eternal contradiction between rich and poor, between those who control the main technologies and those who do not (Comaroff and Comaroff 2012).

Over the last ten years Ghana has shown a spiking economy with growing macroeconomic factors and a flow of Foreign Direct Investment (FDI) (The Africa Report 2012). The fiscal deficit fell from 5.9% to 4.3% thanks to a powerful revenue performance in 2011 with exports reaching US \$2.6 billion for oil, \$4.5 billion for gold and US \$1.9 billion for cocoa. Despite this performance the account deficit will worsen, shifting from 8.2% to 11.6% of GDP. This deterioration seems to be determined by the rebound in non-oil and oil imports as well as the outflow in income account and services (OECD 2012).

Economic growth has been also accompanied by an influx of new loans. In 2011 the government contracted new loans for a total of \$4.3 billion which include the already discussed \$3 billion from the China Development Bank and \$10 million from Brazil, as well as US \$122.7 million from Korea (OECD 2012; Government of Ghana Official Portal 2012).

Ghana's strong economic performance in 2011 was particularly driven by the spiking growth in mining, quarrying and petroleum sectors (OECD 2013). Meanwhile, over recent years significant amounts of money have gone missing. A member of an NGO committed to budget advocacy, encouraging the government to spend more money on public services, explained how they understood that the government suffers major failures in raising revenues (an endogenous cause of poverty):

'We looked at the mining sector and we saw that there were lots of tax leakages in the natural resource sector, through invoice trade mispricing, transfer pricing, and all kind of mechanisms that allow people in the mining sector and oil sector to get away with the non payment of taxes. [...] For example a mining company comes to Ghana acquire a concession, works on it and after a while wants to sell it, because the time is good to sell. They sell they make profit and

⁹⁶ Personal communication with ISODEC NGO.

they are required to pay taxes on the profit they make, but they don't, they get away with it'.

This NGO has identified a major issue in the way the country raises revenue which results in insufficient funds to provide public services.

Tax breaks also play a role in reducing the government revenue, but this topic is never addressed within partnerships; it is simply members state this issue is not 'their business'.⁹⁷ However, the operation of tax breaks remains an important issue, considering the loss in proceeds and effects on budgetary constraints which result from this practice:

'There are all these tax breaks to encourage investors. Considering all the aids they receive they are still net exporters, but this because of the tax breaks, and conditionality they lose three times the value of overseas development aid because of all the conditionality that have been placed on the investments. Governments believe that if they do not lower taxes corporates will not invest in their countries, but because of the lack of tax that they cannot deliver public services. It is a vicious circle'. (Manager at PubOrg1)

The granting of tax breaks, inefficiency in tax collection methods and the mismanagement of public resources are therefore three factors which result in the government of Ghana not having enough financial resources to adequately provide basic public services to its citizens and ensure legal efficiency.

The other factor which negatively affects the budget is, as previously stated, corruption. An NGO worker explained:

'Donors (business and statutory) have started giving more money to government thanks to trade unions and NGOs. This has started slowing down the programmes. The Japanese are the biggest donors to the government. The government should get money through taxes, but they now get them through donations more and more. But the government has tended to mess with these funds, much more money goes lost or sent to different directions. This tendency started with the excuse of improving government coordination of activities'. (Director at NGOδ)

The above NGO worker used the expressions: 'to mess with funds', 'going lost' and 'going different direction' to indicate the other endogenous cause of poverty: corruption.

⁹⁷ Personal communication with the director at PPP1.

In chapter two I reported the speech made by Atta Mills when two custom officials were found supporting cocoa companies smuggling cocoa to Ivory Coast. This form of corruption and many others operating in different sectors and at different levels of the political system, have significant negative impacts on the governmental budget. Ursula Owusu, vice president of the Legal Aid Service in Ghana, stated during a TV interview:⁹⁸

'It is not just a matter of the political leadership, we have a problem with the technocrats as who are consistently [...] work(ing) against whatever effort the political leadership put in place to arrest that issue. We are so interested at pointing at presidents, ministers and appointees, and [...] we lose sight of the fact that the perpetrators of offences knock politically heads together and slipped under the radar and continue to do what they were doing'.

She continued to note how the leadership did not really take all the steps that were required to address the situation of persistent corruption:

'When the president in the aftermath of the customs expose went to Tema and made so much noise about the lifestyle of custom officials, that it is difficult for him to see how a custom official can build a house in three years, we also pointed out that some of his appointees within a short years of being in office, are leading lifestyles which are not consonant with the salaries that they are getting, so he should investigate that. [...] They did nothing. I remember that in the run out of the 2008 elections, our president⁹⁹ was saying that even without evidence, on the basis of newspapers' allegations he would take actions. We have gone beyond newspapers' allegations. [...] Nothing came out of it'.

Another aspect which plays a huge role in farmers' household poverty (that is never addressed in partnerships) is the creating of deceptive information intended to make farmers believe in misleading promises which will not benefit them. A member of a PPP2 described how government officials openly use farmers' ignorance to the benefit of the ruling class:

'They (farmers) pay taxes but they don't pay taxes. The amount of money that the government takes from the cocoa is not exactly the same as what the farmers gets. Farmers were taking 73% of the actual international price of cocoa. It was kind of funny when I heard a political party promising to pay 70% of the price to farmers.

⁹⁸ The TV interview was broadcasted on 12/12/2011.

⁹⁹ At the time of the interview the president was John Atta Mills of the NDC party, he died in July 2012 before the end of his mandate.

What they meant is that they were going to pay higher taxes, but the farmers did not know this. There is such a high level of illiteracy. In October they announced the price, that is what the farmers get, it is already taxed' (Director at PPP2).

Partnerships operate under strong convictions that the synergic strategy of all parties working together can address the symptoms of poverty, without nevertheless addressing what favours its perpetuation, such as efficient and transparent tax collections and budgeting, corruption. Without any doubt, such a synergic approach can achieve positive results that different organisations working in isolation would not be able to achieve. However, some important issues are not being addressed, which ultimately put at stake the sustainability of all projects and activities implemented to protect children from dangerous employment. It is naive to believe that the industry will continue investing in education and poverty relief projects forever. Only a clear national policy and strategy can maintain the services that have been put in place by previous and present partnerships.

Cocoa PPPs spend a considerable amount of money on projects delivered to promote sustainable cocoa industry and protecting children. All these activities inevitably focus upon one sector – cocoa. Most of the problems that PPPs try to address are of political and governance nature, whereas the answers brought forward are mainly project and sector based. For example, the increment of farmers' incomes and cocoa production to lift farmers from poverty, both of which serve to address child labour. Thus the logic which seems to prevail in certain decisions is merely expressed in terms of efficiency and need for business to employ corporate social responsibility, while neglecting the most important aspects of revenue collection and good governance. Ultimately, PPPs sit very well within the history of capitalism where everything remains the same, while still constantly changing (Harvey 1989).

While the suggestion is put forward for companies to spend more money on the elimination of child labour, my research suggests that the role of the government is questioned only in private but never within partnerships. A public agency member said:

'should government be giving money to project or to building schools or should they be revising their procurement practices related with prices of cocoa? I do not think that it should be the company solving problem like lack of schools and lack of minimum social services. Ghana is a middle income country or it is on its own

way to becoming one, it is going through a very good economic moment now for the last years. But talking to the different national institutions it is shocking to see the limited amount of resources they have' (Manager at PubOrg1).

CONCLUSIONS

This chapter frames the background of this research and provides tools to assist with understanding the environment in which partnerships are thriving in Ghana.

The country's history has been introduced and I also presented the intricate relationships between cocoa industry players and political corruption, as well as the recent economic success which coincided with new FDI and a poor taxation system.

I have explained that understanding taxation and corruption in Ghana is fundamental if legal enforcement and efficiency is to be understood. As Cotterrell (1997) clearly outlines, efficiency is the provision and overseeing of public services such as education and health, and enforcement refers to establishing measures and supervision mechanisms to ensure compliance with the law, as is the case with the child labour monitoring system promoted by recent partnerships (see chapter one).

Often interviewees discussed the role of partnerships in addressing child labour and the relevant problem of poverty. Despite this, poverty is overly simplified and some of its endogenous triggers are neglected, dismissed or not mentioned for the sake of peace and collaboration within partnerships boards.

This chapter has critically addressed the importance of investigating revenue loss occurring due to taxation inefficiencies, the granting of tax breaks and the existence of corruption. These factors indeed play a role in depleting the national budget and valuable resources needed for the enforcement of the law as well as its efficiency which would ultimately benefit children. In fact, two companies described the time when the government of Ghana was asked to put US \$2 million to roll out the child monitoring system which resulted in the government claiming that the money was not available.

I do not want to suggest that corruption and an inefficient taxation system are the only causes of poverty in Ghana –nonetheless Ghana is indeed experiencing a significant economic

moment and addressing resource leakages could, I contend, contribute to the sustainability of partnership projects.

This chapter also dedicated a section to the difficulties of implementing labour law, particularly in relation to child rights in Ghana and more generally in Africa. I explained that poor legal efficiency and enforcement, namely efficiency, has two causes. First, legal norms and institutions have been transplanted from external models onto the African continent. Second, poverty (resulting from exogenous and endogenous factors) affects the quality and quantity of services deployed to achieve efficiency.

Partnerships' actions and strategies are inevitably shaped by predominant approaches and ideologies. The next chapter is an attempt to analyse primary material gathered during my interviews, in order to understand how civil society and industry and public players previously shaped and are now reshaping their strategies to ensure legal efficiency occurs. They all have acted to implement projects that aim to protect children from hazardous employment (see chapter two). They have, however, recently changed their approach by moving towards a system which is less project-based, thereby including legal implementation initiatives through community based labour rights monitoring systems.

The following chapter details findings from the field in order to develop an analysis of the ways in which specific power dynamics have shaped partnership strategies aimed towards eliminating child labour from cocoa farms.

CHAPTER 4

POWER SHIFTING IN COCOA PARTNERSHIPS AND THE EFFECTS ON CHILD RIGHTS ADVANCEMENT

Throughout the previous chapters I presented the difficulties of enforcing child labour legislation in Ghana and the role that cocoa partnerships have come to play in promoting legal compliance. In this chapter I will look at the strategies put in place by partnerships, designed to ensure legal enforcement and efficiency.

Traditionally, police and government regulatory bodies represent the system which is responsible for supervising the enforcement of law (Cotterrell 1984). In line with this, traditional human rights literature describes governments as being duty bearers and individuals as being human rights holders (Bobbio 1990; Cotterrell 1984; Higgins 1996; Jochnick 1999). As Higgins concludes, 'human rights are demands of a particularly high intensity made by individuals vis-à-vis their governments' (1996:105).

However, over the last decade in Ghana a new pattern has emerged, where partnerships act as a collective regulatory body. Under these circumstances, individuals and civil society demand human rights vis-à-vis NGOs and companies, and governments are increasingly relegated to the role of playground manager.

As advanced by Jochnick (1999), the interpretation of human rights has indeed moved beyond a paradigm which is state-centric. Human rights promotion is also demanded of other players which have gained power in the current neo-liberal system.

'The narrow focus of human rights law on state responsibility is not only out of step with current power relations, but also tends to obscure them. The exclusive concern with national governments not only distorts the reality of the growing weakness of national-level authority, but also shields other actors from greater responsibility.'
(Jochnick 1999:59)

Jochnick suggests that other players, including large multinationals, should also assume a role as duty bearers as they, too, play a part in controlling human rights violations:

'(R)esponsibility should correspond roughly to an actor's influence and proximity to violations. The human rights system allots almost total responsibility to the state based on the presumption that the

state has control over violations. However, because other actors have assumed much of this influence and control they should assume some of the corresponding duties.' (Jochnick 1999:77)

However, this view of the state as a victim of corporate power or only interested in pursuing its own interest (Jochnick 1999; Zaidi 1999) diminishes the attention on its responsibility in terms of advancing human rights. As Korten (2001) points out, states are not passive actors or victims of corporate power. They themselves have favoured and promoted a certain economic model and the rise of corporate power (Green and Ward 2004; Korten 2001). In fact in the United Nations, states themselves invite large companies to participate in political debate (Korten 2001).

Through the means of partnerships - governments, businesses, international organisations and civil society actors make a collective effort to act as duty bearers. Organisations working in partnerships support or find themselves having to accept the idea that collaborative strategies are better suited to alleviating poverty and protecting human rights. As this research will demonstrate, not all companies agree on the role they should play in public policy, in other words, their political role.

Partnerships use project activities to collectively act as legal enforcement agents. This takes place through both large-scale public-private partnerships (see the ICI and the Child Labor Coordinating Group - CLCCG) as well as smaller forms of partnership (i.e. single business-NGO partnerships like Cargill and Care International or VSO and Cadbury).

Cocoa partnerships ensure legal efficiency and enforcement through ad hoc project activities which include the provision of public policies to support children (i.e. in providing schooling and means of transportation, building roads to reach remote schools, training teachers etc.) and the rolling out of supervisory mechanisms (such as the child labour monitoring system).

During the first decade, cocoa partnerships were characterised by a strong relationship between businesses and NGOs. This has led towards a prevalence of community-based projects with activities run according to 'NGO-style'.¹⁰⁰ Under this system, efficiency and enforcement of child rights is localised within the framework of specific projects run and/or funded by NGOs and businesses.

¹⁰⁰ Personal communication with senior officials at ChokoComp 4 & 5 and PubOrg1.

Ultimately, the provision of services and child labour monitoring remained circumscribed to project boundaries. This could take place via the regular monitoring of a single project's progress, where baseline surveys and project reporting provides detailed information. Otherwise, the monitoring provided overall information of cocoa project activities. For example, in 2006 Tulane University was appointed by the US Department of Labor to conduct yearly child labour surveys in the cocoa sectors of Ghana and Ivory Coast and to track the progress of cocoa partnerships towards eliminating the use of child labour (Tulane University website).¹⁰¹

Through cocoa partnerships, certain organisations (companies and NGOs) have become strengthened or acquired greater legitimacy as duty bearers.

NGOs started establishing their role as duty bearers more than 40 years ago (Clarke 1998). This role was promoted by their active involvement in projects where NGOs were portrayed as being more efficient and more cost-effective than governments (Edwards and Hulme. 1996). As demonstrated in chapter one multinationals have increasingly assumed a similar role as duty bearers with the rise of partnerships.

Greater legitimacy has also strengthened the political power of NGOs and companies which have ultimately gained a newfound ability to make decisions over legal enforcement and efficiency. They have done so by implementing cocoa partnership projects which have a great impact on certain Ghanaian citizens and their rights. These projects provide for protection of children from hazardous employment, training of teachers, building schools and health centres.¹⁰²

During my interviews, most cocoa partnership members took pride in talking of partnerships as being collaborative measures where conflict is either absent or reduced to a minimum. Presented as creating a calm and collaborative environment, partnership members tend to portray an image of collaboration where conflict is overcome by the need to achieve a common goal (the protection of child rights and the future of cocoa production).

But is it really so quiet on the partnerships front?

Mostly, interviewees disagreed with the idea of power analysis and argued that in cocoa partnerships all parties share equal power. But power is a social phenomenon and one could

¹⁰¹ Tulane University <http://www.childlabor-payson.org/>

¹⁰² See projects' details in chapter one.

hardly argue that it should be ignored in the name of collaboration (Cotterrell 1997; Foucault 1982; Garland 1990).

One tends to imagine power as being exercised through dominant and aggressive means, however power can also be exercised passively, for example, simply prevailing in decision making or shaping the decision making process. Those who prevail in decision making usually do so thanks to their established (see governments and NGOs) (Jochnick 1999) or newly acquired (see business) legitimate role.

In chapter two I explained how I intend to use the power framework analysis provided by Poggi (economic, political, ideological power). Throughout this research I will often argue that new organisations have acquired a political role, meaning that they are ascribed responsibilities which traditionally civil society and international organisations attributed to governments (Ashman 2001; Crane 2005; Zimmeri 2009).

However I do not want this to be a rigid analysis which looks only at political power, economic power and ideological power. I want this analysis to be flexible, in order to capture the fluidity of power. Lukes (2005) and Foucault (1982) provide elements which are particularly valuable for this analysis.

Most theorists of power agree on one point: '(t)he power of an individual or collective actor A with regard to an objective O is manifested if A achieves O by consent of one or more actor B' (Lukes 2005:109). When consent and cooperation prevail, then different parties share the objective O. Otherwise, the achievement of O must take place through the means of coercion (Lukes 2005).

Those who are in power and whose power is legitimised by the objects of power can either exercise power through coercion or by structuring the 'possible field of action of others' (what Foucault calls 'government' which is not merely the management of the state) (Foucault 1982: 790). These actors ultimately prevail in the decision making process and prevent conflicts from arising (Foucault 1982; Higgins 1996; Lukes 2005).

Those who are able to structure the possible field of action of others ultimately have power, which can be sought through violence, control, voluntary liking, economic means and ideology (Foucault 1982). Those who are able to set in motion the means to exercise power ultimately hold power.

I will look at power asymmetries on a political, ideological and economic level of analysis (Poggi 2001: 13). Greater details about these three levels of power have been provided in the methodological chapter. At this stage I will demonstrate how public, business and civil society organisations respond to preferences of other constituents or shape preferences according to political, ideological and economic power. The director of PPP1 added that power between members is equally shared since companies and public actors hold equivalent political power. Yet this respondent was only referring to the US government and the cocoa and chocolate industries. However, when looking at power dynamics in partnerships, the analysis needs to consider the overall picture.

When actors from different sectors focus on the same issue, ‘they are likely to think about it differently, to be more motivated by different goals, and to use different approaches’ (Selky and Parker 2005:851). As such, certain goals and approaches tend to prevail over others.

One senior official of PPP2 explained how power imbalances are an intrinsic element of partnerships, this is why suspicion persists:

‘You know partnerships are like two people sitting next to each other and say we are going to this! And one is sitting in a chair and he is so huge. One is so huge and one is so small. So, the small one already feels covered by the big one. That is one kind of partnerships. And of course there is the other kind of partnership, where I am sitting in this chair and I have a mask on my face and the mask has a smile, you never know what is behind. That is the kind of things and of course on the other side there is someone who is also wearing a mask.’

The above statement shows how suspicion and power imbalances are parts of the experience of working in partnership. Looking at power relationships within cocoa partnerships allows us to reflect on such dynamics in partnerships in other sectors. Recent partnerships in tobacco, cotton and mining in fact present characteristics similar to the early years of cocoa partnerships, having a strong NGO-business characteristic.¹⁰³ They will most likely follow the same trend of cocoa partnerships. In fact, some NGO and UN representatives involved in cotton and tobacco partnerships confirmed that the alliance business-NGO is replicated also in other sectors apart from cocoa.

The analysis that follows examines power relations between different partnership players from the early days of cocoa partnerships (2002) through to most recent developments

¹⁰³ Personal communication with senior officials at NGO8 and PubOrg1.

(early 2013). It starts by looking at the relationship between the US government, the government of Ghana and the business sector. It continues with an investigation of the power relationship between the government of Ghana and foreign organisations forming partnerships and also between the government of Ghana and its own citizens. The analysis goes further by looking at the power dynamics affecting multinationals, NGOs, the ILO and trade unions.

These power relationships have a direct impact on the way public services are dispensed to guarantee legal efficiency and enforcement.

STATE POWER: THE US GOVERNMENT AND THE GOVERNMENT OF GHANA

Revelations about children's working conditions in Ghana and Ivory Coast in early 2000 led to international outcry which resulted in a number of boycotts, name and shame articles being published in the press and NGO campaigns against worst forms of child labour in cocoa farms (Ryan 2011).

When Anti-Slavery International sent video footage reporting cases of child labour in the cocoa industry to the US Department of Labour, the American Senator Tom Harkin and Congressman Engel called for those in the business sector (chocolate and cocoa industries) and the governments involved (Ghana and Ivory Coast) to work together to address the problem of child labour in the cocoa sector (Cappelle 2009; Ryan 2011). One NGO added:

'there was a lot of pressure on cocoa countries and chocolate industry; that pressure compelled everybody to work together.'
(Director at NGOγ)

Congressman Engel explained that the initial denial from companies brought them to think about the possibility of stamping chocolate:

'with some kind of language saying that this bar was made free of child labour. [...] And that sort of jarred the industry into action.'
(CNN 2011)

Pressures from these two US political leaders resulted in the creation of the International Cocoa Initiative (ICI), which brings market and civil society players together to address the worst forms of child labour in cocoa supply chains (ICI website).¹⁰⁴ Today, this is only one of a

¹⁰⁴ ICI www.cocoainitiative.org

number of partnerships which exist in the cocoa sector; other partnerships were presented in chapter two. Their number proliferated following the creation of the ICI.

The role of Senator Tom Harkin and Congressman Engel as initiators of the ICI and, more recently, their involvement with the new partnership, the CLCCG,¹⁰⁵ confirms their ability to exercise continuous control over the performance of cocoa partnerships. In fact, their presence aims to use the means of control to ensure that collaboration between industry players and the African governments is effective and brings tangible results.

'To date, our joint efforts have not yet risen to a level that matches the magnitude of the challenge. Today we are here to change that... This is truly an historic step, with the key stakeholders – the national governments, the industry, and the Department of Labor – working as partners to tackle the worst forms of child labor and give these children a brighter future.' (Senator Harkin, CLCCG 2012)

'Great strides have been made to identify precisely where child labor occurs in the West African cocoa sector. We must now use this data to continue bringing about real change. Today, we pledge to take concrete steps to eliminate child labor in the cocoa sector. At the end of the day, that is what the Harkin-Engel Protocol is all about.' (Representative Engel, CLCCG 2012)

The quotes above show the continuous involvement of the two American politicians and their role as supervisors of cocoa partnerships which should allegedly ensure results are achieved.

Another means of control used is the monitoring of child labour in cocoa farms performed by Tulane University. This institute was appointed and funded by the US Department of Labor. Recently, on CNN (2011), Tulane University argued that industry players should increase their financial commitment to addressing child labour in their supply chains.

The two political leaders did not refrain from publicly using the threat of legal punishment against offending companies to draw the attention of businesses to the issue of child labour (CNN 2011).¹⁰⁶

'If these companies are not willing to come forward and work with us and put some more money forward to get these kids out of cocoa,

¹⁰⁵ The Child Labor Coordinating Group is described in chapter 2, as a partnership between the US Department of Labor the chocolate and cocoa industries, and the governments of Ghana and Ivory Coast.

¹⁰⁶ Personal communication with a senior official at PubOrg 2.

I think they might face a big backlash [...] and there will better be progress’. (Senator Harkin, CNN interview)

Congressman Engel explained on CNN that more could be done and that if companies do not show results he is ready ‘to go to law’.

‘It is certainly an option and it is down the line. I would say yes, I would hope that we wouldn’t have to. I would hope that we could make a tremendous progress, but the bottom line for me is to do the progress. And if we cannot do it one way then it is time to do it the other way. But I think it will not be necessary’. (CNN interview)

Privately, the US government also exerted pressure upon the government of Ghana to ensure they made progress in the eradication of child labour. A member of a public organisation explained that during one meeting, the US government threatened the government of Ghana:

‘It is very outspoken, I was completely surprised when we went to Washington and you would hear an American senator telling a Ministry of Employment of a country: ‘You have to do this. And if you do not do this, you will see what happen’. The countries are afraid of trade sanctions; no one believes that that can happen actually. The truth is that there is a very threatening tone, but there is a very urgency on all these different actors including us to deliver.’ (Senior official at PubOrg 2)

The government of Ghana did not happily receive the involvement of a foreign country in their internal affairs. In early 2000, the two political leaders from the US proposed to adopt a certification ‘child labour free chocolate’. However this encountered a strong resistance from the governments of Ghana and Ivory Coast:

‘Governments were very resistant to the whole idea of certification under the Harkin Engel Protocol. They were against the whole thing, they felt very offended and threatened and preached to by the North. So they were resistant. It is in everybody’s interest to address child labour, but it was not in their interest to address child labour. This has changed in the last year or two in Ghana.’ (Senior official at ChokoComp 5)

As the quote above highlights, advocacy and pressure brought a change in attitude of the government of Ghana, which subsequently raised the issue of child labour as one of its priorities. For the first time, in fact, a line dedicated to the elimination of child labour was

introduced in the national budget (see the National Plan of Action for the Elimination of the Worst Forms of Child Labour in Ghana 2009 – 2015).¹⁰⁷

Despite the government's decision to introduce a national plan of action for the elimination of the worst forms of child labour, one trade union member explained that transparency still remains an issue as the allocation of recent public funds is not clear:

'for the first time in Ghana, over the last two years the problem of child labour was put in budget. But we still cannot see how much each department receives from common fund but we are advocating in this direction.' (Member of TradeU2)

The involvement of the US government has influenced some changes in the decision making process taken by companies to get involved in child labour elimination programmes as well as the decisions of the government of Ghana to include the issue in the national budget. However two main criticisms have emerged in relation to their role in cocoa partnerships.

Firstly, their involvement is perceived by public organisations as foreign governmental interference with the internal politics of Ghana,¹⁰⁸ which ultimately questions the legitimacy of the African government:

'What for me is a bit unusual is to see a foreign government, the US government and two people from the congress actually, that are in a way telling what these two governments¹⁰⁹ should be doing.' (Senior official at PubOrg 2)

Secondly, Ghana was called to take action against child labour at a time when the US had not managed to pass a law to protect children working in the domestic agricultural sector (the Children's Act for Responsible Employment - CARE Act), HR 3564 (Human Rights Watch).

'I just wanted to raise this point, because as we get closer to work with governments more closely, it starts to really come out where some of the ministries and the president of Ghana and Ivory Coast...why are the USA and European governments expecting more from the African governments, when it comes to children working on farms, than they are willing to enforce in their own countries?' (ChokoComp 4)

¹⁰⁷ Personal communication with a member of TradeU2 and one senior official at PubOrg 2.

¹⁰⁸ Personal communication with one senior official at PubOrg 2 and the sustainability advisor of ChokoComp 2.

¹⁰⁹ The governments of Ghana and Ivory Coast.

The influence of a foreign country becomes even more noticeable when we consider the fact that the government of Ghana did not sit on cocoa partnership boards during the first ten years of their operation. During the first ten years of cocoa partnerships the government of Ghana did not sit on the ICI board or other partnership boards;¹¹⁰ despite the fact that commitment and coordination work was desired and expected of it.

The fact that the government of Ghana is a member of the CLCCG partnership together with businesses and the US Department of Labor further reinforces the influence of the US government.

Partnership members ensured the involvement of the government of Ghana by discussing projects with local districts¹¹¹ and seeking the approval of local authorities. However, consulting districts did not help national coordination as information was not correctly communicated to the relevant unit, the NPECLC.¹¹²

For a decade companies and NGOs flooded the country with a number of projects in cocoa farms without having a clear vision and a national long-term approach to guide them.¹¹³ One trade union member lamented this situation explaining that no guidance and coordination from the central government was in place and as a result, sustainability was not guaranteed:

'You cannot come and say 'ah you are a bad guy and I take your child to school'. You come from Washington DC and take my child to school then after three years I can't find you again.' (Member of TradeU2)

Employees (having managerial position) of three companies interviewed concluded that projects in the first ten years proved to them that the sustainability of public policy and legal enforcement does not exist if the government of the relevant country does not provide national guidance.¹¹⁴ Managers working at ChokoComp 3, PubOrg 3 and PPP2 described past situations where projects, limited to communities, overlapped and sometimes also conflicted.

The creation of the CLCCG in 2010 marked a turning point bringing African governments back to the decision making table with the goal of overseeing incoming projects on child labour in cocoa.

¹¹⁰ With the exception of the now closed International Cocoa Verification Board.

¹¹¹ Local districts are local state administrators, given Ghana has a federal system of governance.

¹¹² Personal communication with senior officers at PubOrg 3 and ChokoComp 2, 3 & 4.

¹¹³ Personal communication with senior officers at PubOrg 1, 2 & 3, ChokoComp 2 & 4 and PubOrg 3

¹¹⁴ Personal communication with senior officers at ChokoComp 2 & 4 and PubOrg 1 & 2.

'It is a lesson from the past that lead companies to form the last PPP. [...] Private sector and the ILO will be supporting the government to implement its programmes according to the mandate of reducing child labour. If ILO-IPEC advances this money, it supports the government to implement the child labour activities. This is clearer than the money going directly to an organisation to implement.'
(Senior official at PubOrg 4)

Over the first ten years of the operation of cocoa partnerships the government of Ghana was shown to have a weak contractual power in relation to the US government. The US government led the debate on child labour elimination in the African country and used methods of control and threat to bring about change in relation to child labour practices.

With the formation of the CLCCG the government of Ghana has regained some political power; however the physical presence of the US Department of Labour as well as its strong financial commitment to the cause clearly signals where political and economic power resides.

The strong call for multinationals to be more active in human rights protection (not merely on ensuring human rights due diligence) diverts attention away from the role that the government of Ghana should play in terms of public spending and national budget allocation.

At the national level the government of Ghana still exerts power which has an impact on the way child rights are advanced. Through COCOBOD the government of Ghana maintains quite a strong economic hold on the cocoa sector. COCOBOD licences traders and regulates the cocoa market (Meredith 2006), purchases all cocoa produced in Ghana and then sells it to licensed companies (Barrientos et al. 2008). The government of Ghana also allocates a considerable amount of funding to cocoa farming extension to increase productivity and training farmers (Ministry of Finance 2012).

Despite the country's economic performance, only GHc2 million (US \$1 million) of the national budget has actually been allocated to addressing child labour in the cocoa sector (Ministry of Finance 2012). This has been praised by all partnership members except for two companies (ChockoComp 4 and Armajaro which attended the conference Feed your Mind in 2013 where I spoke about cocoa production and child labour) whose members expressed dissatisfaction with what they consider to be a limited economic contribution. In fact, members of such companies blamed other companies and organisations for remaining silent

over the issue, claiming their silence contributed further to this limited financial commitment of the central government of Ghana.

THE GOVERNMENT OF GHANA: POWER FROM DIFFERENT ANGLES

The NGOs involved in the 10 Campaign presented the government of Ghana as struggling to make ends meet and as being powerless in front of other more powerful players like the industries (see 10 Campaign 2010). This is in line with the idea put forward over the last century that states have lost their power, particularly against corporations (Jochnick 1999; Walker and Mendlovitz 1990; Tombs et al. 2003).

However, here I intend to go beyond this view and explore the balance of power in cocoa partnership with greater attention, reflecting particularly upon the way the government's power influences child rights advancement. The power of the government of Ghana can be analysed from two angles. First, in its relationship with other partnership players (companies and NGOs) in the promotion and implementation of projects on child rights; secondly in relation to its duties towards its own citizens.

The Guiding Principles on Business and Human Rights still recognise the role of the state in protecting its citizens against human rights abuses (Ruggie 2011), despite some arguing that the interpretation of human rights should move beyond a paradigm which is state-centric (Jochnick 1999; Scherer and Palazzo 2010).

I will therefore reflect upon the way the government of Ghana acts as duty bearer in its own country, ultimately taking decisions on administering public policy and using political power through the means of its institutions and laws. This provides me with the means to assess how the government fulfils its social contract from which stems its legitimacy.

For the first ten years cocoa partnerships operated in Ghana, most¹¹⁵ engaged prevalently with local districts and advocated with ministries for increased public financial support to address child labour issues.¹¹⁶ However there is a huge difference between engaging with the government only after decisions have already been discussed at partnership board level (in

¹¹⁵ With the exception of the now closed Cocoa Verification Board. The government of Ghana sat on this board which only had the scope to take an independent look at the national survey on child labour conducted by Ghana and verify results through independent sources to determine accuracy and whether or not they could be used as baseline for designing programmes in the future.

¹¹⁶ Personal communication with senior officials at NGOα and ε and PPP1, 2 & 3.

offices in Europe or USA) and engaging with the government at the inception phase so as to allow them to shape activities in collaboration with other partnership members.

During my research I asked interviewees several times why the government of Ghana did not sit on most partnership boards; the reasons presented mainly related to guaranteeing independence. Three PPP leaders, members of a public organisation and two NGOs claimed that if a partnership is between industry and civil society players, the government should not sit on the board in order to guarantee independence.

'I do not think it is the role of Governments to join and sit in the board of a foundation here in Switzerland like the ICI. It is on the ICI to engage with governments in Ghana.' (Senior official at PubOrg 1)

'Governments are not directly involved in the board, but this is important because the principle of the board is that it is independent and it should not have a political representation. The independence is secured through equal balance of membership between civil society and corporate industry and through the non participation of governments.' (Director at PPP1)

Despite the above, some respondents pointed out that the absence of the governments of Ghana and Ivory Coast on partnership boards constituted a real problem. They claimed this undermined governance as well as the supervision of project activities and sustainability.¹¹⁷ One of the two respondents at ChokoComp 5 lamented the absence of the government of Ghana in partnership boards:

'You have got to have the governments involved in that discussion, you have got to have producers involved in that discussion and you have got to have farmers involved in that discussion as well.¹¹⁸ It is only with everyone being part of it that you can get a very good solution that not only works but that actually will last.' (Senior representative at ChokoComp 5)

Over this first decade, the government of Ghana's role in reducing worst forms of child labour proved weak in comparison to the financial and physical advancement of other private players, such as NGOs and companies which implemented projects at community levels at their discretion.¹¹⁹ In interviews senior officers of NGOα and δ, ChokoComp 1, 3, 4 and 5 and

¹¹⁷ Personal communication with senior officers at PubOrg 1, 2 & 3, TradeU 2 & 4 and ChokoComp 2, 3 & 4.

¹¹⁸ Farmers' organisations (GAWU) only recently (2012) joined the ICI board.

¹¹⁹ Personal communication with senior officers at PubOrg 1, 2 & 3, ChokoComp 4 and PPP3.

PPP1 and 2 defended themselves arguing that all projects were discussed and implemented with the government, meaning that local district authorities were involved.

However the government of Ghana resented its exclusions and the limited role it played during the first ten years of cocoa partnerships.¹²⁰ In fact a member of one partnership explained that working with the districts did not automatically mean that the central government unit was aware of what was happening overall around the country:

'The district....! There should be an agency in Ghana which should approve every single project here, before implementation. I have seen this in other countries and it works (Rwanda and Senegal). In Ghana they do not have this system and they just have so many overlaps. Organisations tend to go to easy places; there are less projects in the north because it is harsher there.' (Director at PPP3)

This role of approving every single project is now fulfilled by a steering committee, financially supported by the ILO.¹²¹ However questions have already been raised over the future of this body when ILO funding comes to an end.¹²²

In 2012 the structure of cocoa partnerships shifted, with the government of Ghana now sitting on a partnership board, the CLCCG, and also being directly involved in a partnership with the ILO. The CLCCG and partnership with the ILO (more details in chapter two) both aim to advance child rights and compensate for the weak role played by African governments during the first decade partnerships operated.¹²³

Ultimately, recent partnerships recognised the need to bring on board the Ghanaian government so that it would take charge of the development and implementation of the new child labour monitoring system. The child labour monitoring system will be led by the Ministry of Employment and Social Welfare, but remains a community based effort (CLCCG 2012).

New partnerships also want to ensure a sort of 'technological transfer' is able to take place, where knowledge is transferred from private to public players so to ensure action which is not only focused on cocoa, but has broader national reach. During the initial years partnerships operated within the cocoa sector in Ghana; NGOs and companies developed

¹²⁰ Personal communication with employees at PubOrg 3 and director at ChokoComp 2.

¹²¹ Personal communication with one manager at PPP1.

¹²² Personal communication with one manager at PPP1.

¹²³ Personal communication with employees at ChokoComp 3 & 4 and PubOrg 1 & 3.

skills and knowledge which are valuable for the purpose of tackling child labour in cocoa farms. However, given the government had been left out of key strategic activities, it did not master the same expertise.¹²⁴

Partnerships were initially dominated by a privileged relationship between businesses and NGOs, where the former saw the latter as the main expert in addressing child labour and poverty.¹²⁵ When the issue of worst forms of child labour in cocoa farms came to public attention, companies turned to NGOs which they believed had the right level of expertise to solve the problem. This point will be further explored later in this chapter.

The majority of partnership members (particularly those based in Europe), admitted that poor coordination and limited achievements were due to the absence of the Ghanaian government on cocoa partnership boards. Two partnership leaders at PPP1 as well as managers at ChokoComp 1 and 3 and directors at NGO α and ε however attempted to justify the situation by arguing that the government of Ghana did maintain a monitoring and public policy role, although the financial administration of partnership activities remained in the hands of NGOs and businesses. For these reasons, and because of poor information dissemination due to turf wars which arose between different players, National Programme for the Elimination of the Worst Forms of Child Labour in Cocoa (NPECLC) faced major issues in monitoring the activities implemented in Ghana.

'That has been the problem. The Y¹²⁶ was not negotiating with us. Partners were not really opening up regarding the resources that were coming into our farms to address the child issue.' [...] 'I call it a turf war. Everybody tries to protect his/her own work, without sharing. They protect their interests. We want to know for example the districts where we would like to expand in to. So you want to have the list of communities from your partners and other implementing agencies, but you may not. Because some agencies are not interested in sharing this information. For us, we can send you an email with the list of communities where we work, so that you don't go to the same communities in which we work.' [...] 'Companies are quite open and share information, but sometimes they are in competition. NGOs are in competition because it is about securing funds. Thus you don't want to share.' (Senior official at PubOrg 3)

¹²⁴ Personal communication with managers at ChokoComp 2 & 4 and PubOrg 1.

¹²⁵ Personal communication with managers at ChokoComp 2, 4 & 5 and two public organisations.

¹²⁶ The name of the partnership will remain anonymous.

'Regarding partnerships, the main problem is [...] everybody wanting to protect their corner.' (Director at NGOδ)

During my interviews with members of NGOs, businesses and individuals based at partnership headquarters, interviewees disagreed that the lack of involvement of the African government constituted a problem. One company employee tried to justify this situation by saying that civil society actors, businesses and public organisations coordinate their activities to achieve complementary goals, despite this governmental absence:

'You might see a lot of different partners, but the partners are selected for certain tasks, different tasks and different objectives and different agenda. But they are all meant to work different parts of the machine to achieve the ultimate goal which is to reduce poverty, to raise incomes for farmers, to improve livelihoods in local communities.' (Senior representative at ChokoComp 5)

However, the same company employee went on to indicate that poor coordination did remain the biggest problem facing partnerships and that this was a result of the limited role of the government of Ghana:

'An NGO's study indicated that there are 65 programmes funded by business in Ghana. There was no coordination and the government was not aware of what was going on.' (Manager at ChokoComp 3)

Poor coordination led to projects overlapping; with projects remaining concentrated in certain regions (closer to Accra) while other, more remote areas, were neglected (for example in the north of the country).¹²⁷ Projects, for a decade, remained isolated and lacked overall national direction and coordination.

The close collaboration between NGOs and businesses resulted in huge companies' donations being made within specific sectors and geographical areas. For example, Cadbury has partnered with Care International and provided funds to implement projects on child rights and cocoa sustainability in specific cocoa farms. In this case a parallel system of legal enforcement and efficiency developed and was guided by baseline surveys as well as monitoring and evaluation tools designed for specific projects only.

¹²⁷ Personal communication with senior official at PPP2.

During the first decade projects suffered from a lack of cohesive national strategy and strong public interest. The issue of child labour in cocoa farms prevailed over the issue of child labour at the national level and in different sectors:

'We have different projects coming in, people intervening where they want to intervene. And I thought that someone should play the role of being able to decide that in those geographical areas there are too many interventions. In eastern region for example, because it is so close to Accra there are so many interventions, in western there are some interventions but we could do more, distant from Accra very few interventions. And I don't know whether is really the role of NPECLC to do this kind of coordination. Some coordination has been done in terms of map out who is intervening in what.' (Director at PPP3)

'In the last ten years NGOs and business have thrown money in projects and this system has not succeeded. They have scratched the solution but not solved it. You need a national process and government must play a lead role even if acknowledging other organisations. Now you have to present your project to the National Steering Committee if you want to start a new project and we have a few ideas of how this problem can be solved. The state institutions have the responsibility to remove children from labour and provide schools. This is their job.' (Member of TradeU2)

A massive number of incoming partnership projects combined with a weak coordination on the part of the government created confusion among different agencies which operated on the ground. It also generated a parcelled activity lacking a national strategy to help all children in labour practices, not merely those working on cocoa farms. This situation led to an inefficient use of resources and lacking impact.

'There is a lot of waste of resources because of overlapping and I keep on telling the government, you have to clean up this mess.' (Director at PPP3)

Moreover, resources were concentrated in the cocoa sector whereas agencies tasked with addressing child labour in different sectors remained understaffed:

'But it is problem of coordination and good allocation of resources. Very important is the issue of coordination, because the body who is supposed to be coordinating all of this is actually the child labour unit, within the labour department and they are seriously understaffed and under resourced.' (Manager at PubOrg 1)

Over the last couple of years, many activities continue to be run by NGOs and businesses together, however, increasingly, calls are being made for further involvement of the government Ghana. This shift in approach took shape when businesses came to the realisation that government needed the space to coordinate the playing field and ensure their own projects would be sustainable. Two senior representatives of the global chocolate and cocoa industries (ChokoComp 2 & 3) described this shift:

'Once we knew exactly what we wanted to accomplish, we said that we needed to be in partnerships with the government and I think this is a big step. If you really want to drive significant change, we do not believe CSR.... If you want to drive a significant change you have got to work with the government. Now, it is not always easy.'

'When we first formed the ICI¹²⁸ we wondered, how on the world do we tackle this massive issue through a small foundation? This is one of the challenges we face, the size and scope of this foundation is pretty daunting, the complexity of it is also pretty massive because people take the simplistic view that children should not work, people should be in school and that if you build the school children will go to school. But if you enter the rural areas of Ghana you see a huge lack when it comes to education. For people to go into communities and say: your children should not be working in farms and should go to school; people look at you and wonder what planet are you from now...because there are no school. This is when industry said, hang on it is not industry's responsibility to build schools in Ghana for the citizens. It is the responsibility of the national government. This is one of the ongoing tensions, whose responsibility is it to tackle this issue especially when there are concerns over better education and better health care. Industry is taking the position that we will help; we will be a partner in it because it is part of our supply chain. But in the end if 10000 schools are needed in Ghana, this is really the government responsibility to address that. I do not think to this has been resolved yet. [...] Millions of dollars are made in the cocoa sector that was never reinvested back into the sector. So the infrastructure was never provided by these countries to create a strong rural and farming sector.'

The most recent partnerships see projects designed to strengthen the Ministry of Employment in Ghana. This is one clear example of 'legal transplant' - as projects on child rights channel resources towards institutions which in Europe are considered worthy

¹²⁸ International Cocoa Initiative.

recipients. The community based child labour monitoring system is coordinated by NPECLC (under the Ministry of Employment). However, the Ministry of Agriculture has existing and frequent involvement in the training of farmers and extensions of cocoa farms. Given government involvement (through the Ministry of Agriculture) in cocoa farms, questions could be raised as to why its capacity on child labour monitoring is not being strengthened, while money is showered upon the NPECLC.¹²⁹

At a time when the government of Ghana is being called to take greater action on issues of child labour, further considerations need to be made in relation to its administration of public policy and ensuring the protection of children's rights. I intend to look at how power is exercised in relation to national governance. In other words, how the government exercises power in fulfilling the social contract from which it draws its legitimacy.

Most civil society members have failed to encourage the government of Ghana to fulfil its obligations, shifting attention away from the responsibilities owed to its citizens (Ghosh 2009; Karat 1984; Petras 1997). NGOs continue depicting Ghana as a poor country struggling to make ends meet (see the 10 Campaign 2010).¹³⁰ However, as we have seen, Ghana is experiencing considerable economic growth in various sectors.

Despite this positive economic performance, the persistent notion that financial resources are lacking permeates society and the government itself:

'For us in Ghana there is a unique problem: the general notion that there isn't enough money. And this becomes the reason why business comes in to support some of these interventions. [...]. Most business intervenes in these public spaces more as part of their CSR.' (Director at PPP2)

'Ghana is a middle income country or it is on its own way to becoming one, it is going through a very good economic moment now for the last years. But talking to the different national institutions it is shocking to see the limited amount of resources they have.' (Manager at PubOrg 1)

One partnership employee argued that even without corruption, Ghana would never have enough 'resources to properly do whatever the job is: public health, human rights and labour rights'.

¹²⁹ Personal communication with the director of PPP2 and manager at PubOrg 1.

¹³⁰ Personal communication with the director of NGOß and manager at PubOrg 2.

The idea of challenging tax inefficiency is never addressed in partnerships.¹³¹ As one company manager explained, people ask in private but not openly within partnerships. Moreover, the COCOBOD is highly praised for its work in training cocoa farmers and running radio campaigns regarding the hazards associated with child labour.¹³²

According to an employee of one local NGO the notion of a lack of resources in Ghana is fed by the presence of a continuous flow of donations:

'(the) government does not give enough money anymore, they know that NGOs or business will put the money eventually.' (Director at NGOδ)

Ultimately, money continues flowing from external sources to fill in the vacuum left by the government of Ghana. This dynamic was observed by Moyo (2010) and Petras (1997) who identified how aid from large international NGOs would reduce pressure on duty-bearers (governments) to meet obligations to their citizens.

In relation to the implementation of the recent child labour monitoring system, the NPECLC claimed it had to reduce the number of pilot communities due to a lack of financial resources:¹³³

'A few months ago NPECLC went to the US government and said we do not have enough money to scale down GCLMS (Ghana Child Labour Monitoring System), and they had to give them the money. It is a sign that there is not enough money. And NPECLC was supposed to now pilot 60 communities and they are going to pilot only 30, because there is not enough money.' (Manager at PubOrg 1)

This flow of financial resources requires further involvement of those players who dispense the donations in terms of the monitoring of projects and other administration costs. As the manager of PPP2 highlighted:

'whenever someone comes from the USA on monitoring visits, the amount of money they use on their transportation, their internal transports, hotel accommodation, is counted as part of the money that has been given to Ghana. But it never comes to us. It is good for monetary purposes, for them to spend that money, no doubt. But it

¹³¹ Personal communication with the manager at ChokoComp 4.

¹³² Personal communication with the director at PPP3.

¹³³ Personal communication with the director at ChokoComp 4 and one senior official at Armajaro.

really does not feed directly into the intervention. This is number one. Number two, you have probably noticed that there is a lot of projects all seeking to improve the cocoa sector.'

Thus, a considerable percentage of the funding is used for administration purposes and to monitor the progress of the projects.

Being still a commodity export driven country the government of Ghana indisputably faces some issues related to the limited resources available. But, these limited resources can also be explained in terms of excessive tax breaks, a lack of transparency in the taxation system, corruption and conditionality attached to loans and debts by a country. Conditionality foresaw the adoption of the neo-liberal model in Ghana with policies that included fiscal discipline, privatisation, deregulation, trade liberalisation and cut in public spending (Park and Vetterlein 2010).

The perception of there being a lack of resources led NGOs and the US to heighten the call for businesses to increase their financial contribution to the advancement of child rights on cocoa farms in Ghana. They essentially placed the social contract which exists between the government and its own citizens, at second place.

'We continue hear from NGOs, the labour sector and the ICI that if industry would give more money, this problem would be fixed. Money is only a small part of the problem, there is political will, there is capacity issue, we have rural capacities issues. There is not enough trained people in neither Ghana nor Ivory Coast to even work on child labour issues and this is one of the shortcoming on the government side.' (Director at ChokoComp 4)

There is a huge call for companies to fund partnerships' projects. However, risks of bypassing the 'government to work directly with the private sector' have been widely reported by different actors.¹³⁴

As the company representative above stated, more money might not be the solution as a national strategy, with long term financial and physical commitment, is needed. Indeed, a national strategy to combat child labour has been launched and the financial challenges the government of Ghana will encounter with regards to its implementation remain to be seen.

¹³⁴ Personal communication with the director of PPP3 and manager at PubOrg 3.

Corruption, neo-liberal measures imposed by the World Bank resulting in tax breaks and massive tax discounts to attract investment, visibly deprive the country of much needed resources (see chapter three). Nevertheless these topics are not addressed within partnerships since they do not fall within their mandate.¹³⁵ Moreover the issue of conditionality does require a debate which moves beyond the limits of cocoa partnerships, to include other financial institutions at the international level. Taxes, the impact of past conditionality, the recent economic crisis and corruption deplete the governmental budget (Park and Vetterlein 2010; Honkaniemi 2010).

Moreover, the World Bank continues to give loans to Ghana and late in 2010 loans came with 57 conditions attached. These included how the government should tax timber, fisheries, and mining oil and gas sectors (Honkaniemi 2010). The country was hit by a fiscal gap of US \$ 3500 million caused by internal fuel and food shocks, and the global economic financial crisis (Honkaniemi 2010). While the government of Ghana reduces taxes on driving economic sectors, companies are called by civil society and public organisations to intervene financially on public policy through partnerships.

The above practices undermine good governance and the ability of the Ghanaian government to unlock financial resources that could benefit its citizens in cocoa farms and beyond. Partnerships attempt to fill this vacuum left by the state. However, partnerships are limited in scope (Utting and Zammit 2006) and a debate on assessing the root causes of poverty has been replaced by the general notion that there is a 'lack of money'. Different organisations in cocoa partnerships rush into addressing the needs of children through dedicated projects. As Ellwood Wayne (1984) explained organisations might rush into finding solutions to fix problems such as child labour. However they do not have the time to actually look at the governance related causes of this phenomenon. In partnerships it is not a lack of time that prevents members from thinking comprehensively of the causes of poverty. Other factors play a role: firstly, topics such as conditionality cannot be discussed as financial international institutions are not involved with cocoa partnerships; second, issues surrounding corruption and taxation cannot be addressed as the debate could upset the delicate equilibrium which exists between different parties; and finally loss in tax revenues would require an international debate to ensure international balance.

¹³⁵ Personal communication with senior officials at PPP 1 & 2.

For one decade money mainly flowed towards cocoa farms. Companies fund projects which address child labour in their business sector, ultimately cocoa. As businesses do not function in the same way as public institutions, they cannot develop and finance programmes which have national reach and are aimed at promoting the national public interest. This has been the main problem for years.¹³⁶

The attention of industry, NGOs and governments was drawn toward this sector because of the large economic potential at stake as this is where ‘money gravitates’.¹³⁷ Issues which need addressing are identified on the basis of either campaign waves or business goals, which means that money is not directed towards projects on the basis of general public welfare need. However child labour is not an issue specific to the cocoa industry:

‘Ghana has child labour problems in fishing, in domestic work, commercial sexual exploitation, trafficking and other forms of agriculture beyond cocoa. These are considered in their national plans beyond cocoa. Where the biggest amount of resources is going into cocoa and the message that we are receiving from the government is: we need help on these other fronts.’ (Manager at PubOrg1)

A broader strategy would fit with the government’s overall goal of operating at the national level. However, this does not fit with companies’ strategies which will distribute resources only where business interest lies.¹³⁸

Cocoa partnerships trigger a process by which money gravitates towards activities which are considered cost effective and in line with campaigns and donors’ priority - business. Thus, money is diverted from all those activities that are not considered to be cost effective or beneficial for business and the country’s main economic sector (Edwards 2013; 10 Campaign 2011). For example, Ghana has a unit which should specifically address child labour throughout the country, the Child Labour Unit (CLU). However, the CLU is heavily understaffed, because attention and resources are diverted towards the cocoa sector:

‘There is a deficient allocation of resources, COCOBOD is the one that has all the money for instance and they are giving the money to NPECLC and maybe they are not giving the same amount of money to the Child Labour Unit. So there are issue of not really lack of funding, because as

¹³⁶ Personal communication with the manager at PubOrg 1 and director of NGOδ.

¹³⁷ Personal communication with the managers at PubOrg 1 & 2 and the director of NGOδ.

¹³⁸ Personal communication with the manager at ChokoComp 2 & 3.

you know the governments are very into this topic and pressed from different sides to actually put the necessary means into action.'
(Manager at PubOrg 1)

The Ghanaian government exerts power through governance by adopting a passive attitude which results in it making a limited contribution to service provision and public policy.¹³⁹ Through this passive attitude it indirectly shapes the way legal enforcement and efficiency is promoted by private players (NGOs and businesses), which heavily intervene.

This passive form of power feeds on the promoted notion that economic resources are not available despite the incredible growth the country is experiencing and its access to credit and high levels of foreign aid coming from Asia (Africa Practice 2012; The Africa Report 2012; Vibe Ghana 2012).¹⁴⁰ I want to discuss this argument in greater detail later on in this chapter, as these dynamics have an impact on the privatisation of labour rights and the role of businesses and NGOs in the advancement of children's rights more specifically.

THE POWER OF WESTERN MULTINATIONALS AS POLITICAL INTERLOCUTORS

Following pressure exerted by US political leaders, the media and civil society, the chocolate and cocoa industries found themselves forced to act. Companies were urged to address the issue of child labour in cocoa farms and unlock financial resources which would provide the support and services needed to make programs aimed at reducing the worst forms of child labour viable.

One manager at ChokoComp 4 explained that at the very beginning of their involvement in the cocoa sector, industry players knew about the use of child labour on cocoa farms; however they had no knowledge of the worst forms of child labour which were taking place:

'When industry was confronted with this issue (2000-2001) of child labour, industry really didn't know anything about the social context and the social implications of these kinds of things. We had a really simple view of the farming sector in Africa. We all knew that the farmers were poor, that there were issues around education. I have travelled with lots of people from different companies and I can tell you for experience. And I think we all knew that children were working on the farms, I don't think we considered and knew

¹³⁹ Personal communication with the director at NGOδ.

¹⁴⁰ Personal communication with the director at NGOδ.

about that trafficking was going on and that worst forms of child labour issues. Many of us have worked when we were young and we had a very surfaced perspective and not a deeper appreciation.

Thanks to the introduction of partnerships, companies have come to play a major role in relation to legal efficiency and enforcement. They have acted as dispensers of public services which have made them strong players as promoters of legal efficiency. But recently companies also favoured and financed the rolling out of the child labour monitoring system, thereby playing a strategic and financial role as legal enforcement promoters.

Despite many organisations interviewed praising the role of the COCOBOD in training and supporting farmers and organising radio campaigns on child labour, representatives from two companies and one NGO reflected on how little resources are provided by the government for much needed public services, including the implementation of the child labour monitoring system:

'Business is stepping more and more in government's work. In some areas, I can see the pattern, government has been stepping back. For example withdrawing trafficked children and sending them to appropriate centres, means you need to leave the money to the centre.' (Director at NGOδ)

Given their economic standing, companies are increasingly attributed responsibilities that traditionally belonged to the government, for example, public policy development (Crane 2005; Zimmeri 2009; Fleming and Jones 2013). More recently this has extended to legal enforcement as the promotion of the child labour monitoring system proves.

One trade union member highlighted that the call on businesses to provide additional financial commitment is justified when considering the need to compensate for the uneven sharing of profits along the supply chain:

'When I look at the cocoa chain and at the farmers and to the consumers and I look at all the workers in cocoa, in markets in Europe, industry...when I look at it and how the profit is shared, you understand that the cocoa farmers are those who get the least of the profits. A very good proportion of the profits of industry goes back to solve community problems and empower the families to send their children to school.' (Member of TradU4)

Civil society members suggested that industry players increase their financial commitment towards partnerships, such as the ICI, to ensure that the problem of child labour in cocoa farms is addressed effectively (CNN 2011; 10 Campaign).¹⁴¹

According to the 10 Campaign, companies must play a role in addressing the issue of child labour in cocoa as the African government 'struggles to make ends meet' (10 Campaign 2010:13). The findings of research by Tulane University support this view and invited the industry to dedicate US \$17million to addressing child labour in cocoa farms, given that the current financial commitment has proven to be insufficient (CNN 2011). Two members of civil society commented:

'Companies should engage around supply chains and public policy. [...] One of the things that we have been noticing is that we have seen some sort of shift in some of the donor agencies (government agencies, statutory and trust donors) which want to much more engage with companies and to get them to take up the discussion about responsible or sustainable production.' (Member of TradeU3)

'The economic weight that they have does allow for the creation of political space in which some of the most difficult policies oriented the conversation were leading toward.' (Director of NGOβ)

Ultimately, it appears that the economic power of companies legitimises them as public policy dispenser in the eyes of civil society.

As Chomsky (1999) and Fleming and Jones (2013) argue, it is increasingly difficult to draw a line between the state and private players when it comes to public policy. In fact, three companies out of five interviewed believe that they have a role to play in public policy implementation. According to them, the idea that corporations have no time or skills to deal with public policy is something of the past:

'There are some NGOs that would still say that there is no room for business, but I think the mood has changed and most of the large NGOs, even if they do not want to partner with business they want to engage and help with policy issues. [...] We worked together toward a common goal to influence the debate.' (Manager at ChokoComp 1)

¹⁴¹ Personal communication with the director of NGO α and a member of TradeU4.

Members from these three organisations went even further, agreeing that business does play a role in shaping public policy, although they pointed out that the government of Ghana should manage the playing field better. However, a member of a PubOrg 2 expressed disappointment that companies have come to take full charge of public service duties that used to belong to the state. These services are financed through the means of corporate donations and not through public spending:

'we just had a meeting with the WCF and one of their training was not only building schools but for instance also training teachers into being better teachers, teaching methodology. And this is supported by business.' (Manager at PubOrg2)

This demonstrates an extension much further than simply promoting the neoliberal agenda of private services (education, health etc.). Companies are increasingly associated with public agencies and legitimised as such.

The idea that companies can provide a solution to poverty is more farfetched than ever before. Companies have come to play a major role in public policy and relevant legal enforcement programmes. However relying on companies for public policy presents an issue which is two-fold. First, the concerns of companies do not align with the general public interest and national policy (Hopkins 2003). Companies simply direct their capital towards areas where they can achieve the greatest impact possible for their business. In the cocoa sector, this equates with increasing cocoa production and ensuring that farmers (workforce) continue producing cocoa.¹⁴² However, children migrate from one sector to another, thus child labour is a national issue which requires a national strategy rather than a business driven strategy.

As Korten (2001) correctly put it:

'(s) till others argue that corporations are simply collections of people and that raising their awareness of the social and environmental consequences of their actions will correct any problems. They overlook the fact that there are a great many socially and environmentally conscious managers. The problem is that they work within a predatory system that demands they ask not "What is the right thing to do?", but rather "What is the most immediate profitable thing to do?". This creates a terrible dilemma for managers with a true social vision of the corporation's role in

¹⁴² Personal communication with directors at ChokoComp 2, 4 & 5. .

society. They must either compromise their vision or risk being expelled by the system.'

Business interests are clearly behind the industry players' involvement in public policy and legal advancement within cocoa farms. The greatest risk for companies remains in fact that poor, unhealthy and uneducated adult farmers might threaten the future production of cocoa by abandoning cocoa farming or using unsustainable farming practices. Ultimately this would jeopardise the profits of cocoa and chocolate industries.¹⁴³ The other risk is that children challenged by the harshness of cocoa farming will leave cocoa growing areas and stop producing cocoa (Kettis and Pot 2010).¹⁴⁴

'Because we after all are an agricultural company and we need farmers to thrive, because if farmers don't thrive we do not have product to move and sell to our customers.' (Sustainability advisor at ChokoComp 2)

'We have a big problem in Ghana, because young generation do not want to become cocoa farmers and this is a big problem and unless you turn cocoa farming in some form of rural business, the farms are going to deteriorate. We all know that cocoa farms have a 30 year life span and that the older they get they require more maintenance. From the commercial point of view the supply is under threat so it may be driven by long term commercial interests but there is a convergence between human rights and commercial interests and this is why company are taking labour rights on board, not just as PR. There are opportunities around this convergence.' (Director at PPP1)

Therefore partnerships have designed comprehensive strategies that tackle cocoa production and the problem of child labour, ensuring that farmers and their children receive services to improve their living standards, health, education and public services. These measures are designed so that people living in cocoa growing areas will want to continue farming cocoa in the future.

These measures, designed to ensure farmers continue farming cocoa, are an exemplar case of Foucault's concept of biopower in action. Biopower is defined as a means through which governments exert control over the entire population - a power exerted explicitly upon

¹⁴³ Personal communication with directors at PPP1 & 3, ChokoComp 4 and NGOα.

¹⁴⁴ Personal communication with directors at ChokoComp 4 and NGOα.

human bodies (Foucault 2007). The ultimate purpose of exerting biopower is to ensure a healthy workforce and guarantee the future of production (Foucault 2003).

Biopower is traditionally associated with government (Foucault 2004; 2007), however in cocoa partnerships, the concept can be usefully extended to the corporate and civil society sectors, which act in collaboration with public players to ensure a healthy workforce and as such, the future of cocoa and the chocolate business.

Biopower has real conceptual value in this case given that cocoa partnerships aim at solving the issue of the worst forms of child labour by implementing projects which have a multiple goals: to ensure the enforcement of child rights, the future of cocoa growing and the profitability of farmers and most of all, of the companies involved. Through the means of partnerships, companies do play a role in problems concerning life and population at a time where the government of Ghana seemed poorly committed to protecting the workforce in cocoa farms, companies intervened.

I have so far argued that relying on companies for public policy presents two problems, one being that companies do not align with the general public interest and national policy (Hopkins 2003). The second problem is that relying on companies for public policy raises questions of sustainability, because one player needs to ensure the supervision and future of public policy and legal advancement:

‘One of our members is funding the constructions of school in Ghana and Ivory Coast in collaboration with the Ministry of Agriculture who is going to train the teachers and bring the teachers and do the rest of the job?’ (Director at PPP3)

‘We built schools and clinics in the past, but we were asked by one of our clients to build the road. Because some senior executive had come with us and drove to the bush and saw that the road was an old path. So they gave us \$90000 and they told us: you guys you are on the field, you run the project and go fix the road. Everyone exited, but we have no skills in running bulldoze, hiring contractures to do roads. So we lost all our money, because we know how to buy cocoa not how to build roads. So we built the road [...] but one or two rainy seasons and that it is gone....because you need to maintain it. And whose job is that?’ (Sustainability advisor at ChokoComp2)

‘In the bush, deep in the bush in Ivory Coast and Ghana is there a school? Is there a teacher? Is there a bathroom? Those are issues

that are beyond our means. Bathrooms at school - one of the main reasons why girls stop going to school, because there are no bathrooms or because the bathrooms are disgusting. Huge problem, beyond our scope. This is a huge problem. So, is there an alternative for children? Is there a school? So mothers with their kids, what are they supposed to do with their kids? So these are socio-economic issues that are beyond just a piece of farming.[...] Family children working on the farm, I think that could be overcome by a better economic situation for the family. But then families hiring children of another family (poor family) to work on the farm. I donno how to solve that. This is a government issue.'(Sustainability advisor at ChokoComp2)

Fleming and Jones (2013), Murphy and Bendell (1999) and Arthurs (2006) suggest that corporations have become political interlocutors and institutions entitled to produce non-binding legal requirements (codes of conduct). However, through the means of partnerships companies have come to use voluntary instruments (i.e. dispensing public policy and funding the supervision of labour rights) to also regulate actions that affect citizens' rights. Partnerships have established arrangements for the elimination of child labour. They did so through projects which provide education, health and social support to children. Nevertheless partnerships do not institute punishments, as their goal is to provide an alternative to sanctions and conflict which would be less costly (Cotterrell 1984; Kettis and Pot 2010).

Representatives of TradeU2 and PubOrg 2 argued that what Arthurs calls 'privatisation of labour rights' (see chapter one) in today's Ghanaian society goes beyond the mere adoption of codes of conduct which would prevail over legally binding international instruments (Santoro 2003). Arthurs and Murphy describe the privatisation of labour rights as the increasing role of business usage of codes of practice and private arbitrators in contrast to the decreasing role of government in labour inspection and arbitration.

Employing the service of private auditors can hardly be seen as a sign of accountability, in fact, audits are run by private organisations whose knowledge of human rights and more specifically labour rights is very poor (Zammit 2003).¹⁴⁵ This is particularly evident in Ghana and West Africa in general, where companies hire social auditors who:

'report to companies who hired them to conduct their audits, whether they are competent to understand the labour standards

¹⁴⁵ Personal communication with senior official at PubOrg 2.

that they have been charged with verifying that is a open question. There are some that are very good, others who are not confident to understand whether labour rights are being violated. There is no international body that trains social auditors and certify them as competent to do what they do. That is a big question. The question of whether is credible is another one. So social auditor can diagnose a problem maybe, but whether they can contribute to a solution is very much questionable.’ (Senior official at PubOrg 2)

Through partnerships, the privatisation of labour rights takes a different form as companies and NGOs operate as private actors to regulate issues of public policy and legal advancement. The presence of NGOs has been described as a means to ensure accountability.¹⁴⁶ However civil society and within this mostly NGOs are and remain private organisations which lack democratic governance (Gramsci 1966; Petras 1997; Wallace 2004). The close relationship between NGOs and businesses characterised the first decade of cocoa partnerships, coupled with a decreasing role of government. When one is discussing the privatisation of labour rights, however, all three parties must be considered together.

With Western governments cutting development funding¹⁴⁷ and African governments failing to achieve real results in their fight against poverty on their continent, a belief is spreading that the work of NGOs, businesses and international agencies can provide the solution (Celton 2011; Edwards 2013).

A senior official at PubOrg 2 explained that the presence of NGOs and corporations in matters of labour rights should not be seen as a problem, since these are the players who in Ghana are legitimised in providing legal advancement:

‘There is this fear or paranoia about having business taking over some of the government’s functions. For us it is a very clear thing. In a place like Ghana, where government was never that strong I am not sure that it is the same type of reasoning. Maybe they think that these are the actors that have a natural role to play.’

However as the members of TradeU2 and 4 in Ghana pointed out, it is the economic power of companies and consequently the NGOs funded by them, which legitimised their very position of deciding what to do in terms of labour rights. Another trade union representative

¹⁴⁶ Personal communication with a manager at NGOε.

¹⁴⁷ UK Department for International Development withdrew funding from UN-HABITAT, ILO, UNIDO and UNISDR (DFID 2011), in 2011 the WHO cut 300 job posts due to budget deficiencies.

metaphorically explained how citizens see NGOs and businesses as the natural interlocutors when calling for better living standards:

'There is a song here which says 'Julin Julin please don't take my man even if you can', Julin is a beautiful woman and she was charming. This friend of Julin was not very beautiful but she had the best man and Julin could not get him. So, this second woman notices that Julin was getting interested in her man and begged her not to take her man, even if she knew she could. The fact that you have the power and the money to make the choices and take decision against players who may not, it does not make it right. Money should not be used as might. Some organisations, some group, want to come out, but they cannot because they do not have money. When we talk about privatisation of labour rights and putting them within the lenses of economy, I think we are undermining labour rights ourselves.' (Member of TradeU2)

The trade unionist ultimately argued that the economic power of companies leads all parties to collaborate with multinationals. However, a complaint is moved against the massive economic imbalances existing between companies and other players.

The increasing role of companies and NGOs in the first decade of cocoa partnerships showed a clear decline of state legitimacy in addressing child labour. Companies were initially, and to a certain extent still are, seduced with the NGO discourse on poverty and believed those organisations to be the best partners when it came to addressing the issue of child rights in Ghana. During the course of my fieldwork some company representatives referred to NGOs as being the 'custodian of skills and experience' which are drivers for addressing poverty in cocoa farms and protecting vulnerable children:¹⁴⁸

'We were talking to YX¹⁴⁹, and they said: child labour exists because of poverty. If farmers could get better money they would have better hopes for their children.[...] Solving child labour requires a bunch of puzzle pieces that are not all within our reach.' (Sustainability advisor at ChokoComp 2)

'The key is poverty that is what drives people to tear down forests and plant something else. Because they want an income. What leads the parent to send their children to the fields is this, because they need the income. What we have been trying to do there is trying to support people at a wider level and poverty is an issue that alone we

¹⁴⁸ Personal communication with directors and head of communication at ChokoComp 1, 3, 4, & 5.

¹⁴⁹ The name of the NGO will remain anonymous.

cannot tackle. We can help in small way by raising income in communities where we are working but to tackle to the wider level we need to work with other organisations. And that brings in our industry, our partners so customers and suppliers (so what you would call business), NGOs because they clearly have a lot to add and because they have been working on these issues for many years and it brings in local government.' [...] 'Their focus (the company refers to an NGO) is environmental and social issues and they have the knowledge and expertise of these issues and the best way to tackle these issues. Our knowledge and expertise is on the commercial side and is marrying these two things together that we have the best outcomes.' (Head of communication in ChokoComp 5)

The business sector saw, and some members still see, NGOs as being the most suitable partners to tackle child labour in Ghana, despite NGOs having indeed failed in their fight against poverty (Vivian 1994; Zaidi 1999). One of the company members interviewed expressed his concern toward the initial trust placed in NGOs:

'When industry was confronted with this issue (2000-2001) of child labour, industry really didn't know anything about the social context and the social implications of these kinds of things [...]. When we were confronted by people like the ILO, Save the Children, the US department of Labour, the UK government, and a number of these institutions, we came with the idea that these guys must be the experts and they must really know what they are talking about. When we engaged with them, there was a lot of miscommunication and misperceptions because there were a lot of assumptions being made that companies owned big plantations. What we then realised was that those people did not really know what was going on in the sector and it took us to 2006/2007 to come to the realisation that these institutions that basically were presented as being experts in child labour, really didn't have the expertise of working in rural areas and on small farms. The NGOs, the advocates, what I have found out was that those people had never been to Africa or never to a cocoa farm and have no clue and 0 expertise on this issue.' (Director at ChokoComp 4)

The same company representative argued that over the first ten years of cocoa partnerships the business sector has come to outgrow the knowledge of international organisations and NGOs on the issue of child labour. He explained that, whereas initially, some companies considered NGOs and international organisations as being the 'experts' on the issue, with time, companies themselves have come to master skills regarding child labour prevention projects. On the other hand, NGO and international organisation staff continue to be stationed in Ghana for a short period of time, meaning that there is a frequent turnover of personnel,

who regularly change assignment and country. Thus, by the time the person learns about the cocoa sector and the issue of child labour, s/he leaves the assignment taking with him/her all the knowledge and skills gained over the years. This point was confirmed during my research, as I happened to meet managers in NGOs and international organisations who recently took over projects, replacing former personnel. They had a strong knowledge of the issue of child labour, but little appreciation of it in cocoa farms as they had little practical knowledge.

One company representative explained that after ten years the industry started realising that their work with NGOs was bringing about some important changes regarding the issue of child labour, however, he continued by saying that if long term solutions are to be achieved, the African government needs to play a strategic role:

'I think we are bringing more and more external NGOs into a country and ask them to solve their problem. This is a temporary fix for a very few people. The real solution is getting good governance within these countries.' (Director at ChokoComp 4)

When companies decided to fund the CLCCG, the industries demonstrated the strong political nature of their role. By choosing where resources had to be directed and by acknowledging that funds were needed in partnerships which included the government of Ghana, they inevitably influenced the way in which PPPs operate. Companies have played a big role in shifting the strategy of partnerships towards greater involvement of the African government (see quote above).

They did so, for example, by directing greater levels of funding towards partnerships that include the African government, like the CLCCG and the partnership with the ILO.¹⁵⁰ These recent partnerships see business playing a significant role and mark a clear change of strategy:

'Business thought that coordination was needed. [...] We wanted to create a project where public institutions were involved and a realistic solution.'[...] 'In the last five years, there has been quite good expertise within the ICI, we need to understand how to transfer that expertise into this governments. The ILO has got to make sure to have people stationed for a long enough time in these

¹⁵⁰ Personal communication with director and head of communication at ChokoComp 1 & 4.

countries on this issue, so that they gain expertise and that they can transfer that into government bodies. The challenge is almost like a technology transfer question.’ (Director at ChokoComp 4)

‘We could spend lots of money building schools but there is nothing that will keep them there when we have gone. No exit strategy. Unless you are there with a staying power, as government, then schools are not going to work. So schools are the ultimate public good, and public good should be provided by the public.’ (Director at ChokoComp 2)

Companies have contributed towards shaping the field of action in terms of child rights by directing financial support towards the creation of the CLCCG and the establishment of a new child labour monitoring system. They continue to work with NGOs regarding cocoa sustainability; however businesses recently began to shift their attention towards governance:

‘Once we knew exactly what we wanted to accomplish, we said that we needed to be in partnerships with the government and I think this is a big step. [...] If you want to drive a significant change you have got to work with the government.’ (ChokoComp 4)

Each company has its own way of working with NGOs. There are those which receive project proposals that they evaluate and then sponsor (like Cargill). Some other companies design the projects together with the NGOs (like Cadbury). Others design the project and then look for the most suitable ‘service provider’, the term many companies use when referring to NGOs (like Cargill, Mars and Ecom). One company representative explained that companies are increasingly designing projects themselves then looking for service providers (NGOs) to implement them.

Over the first decade of partnerships the practice of child labour was predominately monitored through project management tools.¹⁵¹ This means that within a specific project a baseline survey would provide an indication as to how many children had been kept outside of cocoa farms and in school over a specific length of time.

¹⁵¹ Personal communication with managers at PubOrg 2, ChokoComp 2 & 4.

This monitoring was performed by companies together with their NGO partner and in some cases evaluated by external auditors.¹⁵² It is important to note that the evaluators are paid by companies themselves and usually lack in-depth knowledge of labour rights.¹⁵³

This method of labour rights monitoring has two limitations. Firstly, it only monitors child labour in the cocoa sector, ignoring other industries, for example the fishing sector where child labour is prevalent. Secondly, the monitoring takes place within the specific community which benefits from the project, meaning it is difficult to gain a nation-wide appreciation of conditions faced by children throughout the country overall and across varying sectors. This would be useful given children migrate from the cocoa industry to other sectors.¹⁵⁴

Ultimately then, this approach provides limited information which does not offer all the elements needed to tackle the problem of the worst forms of child labour at the national level.

Evidence suggests that during the first decade of partnerships, companies were particularly seduced by the NGO discourse on poverty and child labour.¹⁵⁵ A trade union member even confirmed that for a certain length of time, even international organisations preferred working with NGOs rather than with trade unions, for example.

Companies continue working with NGOs on public policy programmes where they believe NGOs have relevant expertise. Meanwhile the industries are strengthening their collaboration with the government to ensure its involvement on issues of public policy and legal enforcement.

Major resources have now been diverted towards partnerships with the ILO and the Ghanaian government, so that a child labour monitoring system is created.¹⁵⁶ The child labour monitoring system is financed and promoted by industry players and the US government through a partnership with the ILO. It provides a monitoring tool to help ensure children are kept away from hazardous work in cocoa farms - ultimately ensuring that this area law is enforced. It is implemented by local communities themselves via a few trained

¹⁵² Personal communication with managers and directors at ChokoComp 1, 4 & 5 and PubOrg 2.

¹⁵³ Personal communication with the manager at PubOrg 2.

¹⁵⁴ Personal communication with two managers at PubOrg 2.

¹⁵⁵ Personal communication with managers and directors at PubOrg 1, 2 & 3 and ChokoComp 3 & 4.

¹⁵⁶ Personal communication with directors at ChokoComp 1 & 4 and PPP3.

researchers who regularly collect data and transfer it to the central unit of coordination and NPECLC.¹⁵⁷

[T]here will be two types of structures being created at the district and community level. The district is the District Child Labour Protection Committee where you have members from the district assembly; members from the district labour office, from the social welfare office...all those relevant actors at the district level are involved. Then there is the Community Child Protection Committees (CCPC) that is also supposed to be created and they are the engines of the whole system. These are voluntarily created groups, but the idea is to go to the community and try to sensitise people in the community especially the opinion leaders, the chief of the community. They would hopefully get together and try to assess the situation in their communities and try to come up with some remediation actions. In these CCPC a number of people are going to be asked to be data collectors. [...] In principle this should be done on a voluntarily basis, because this comes with the idea this is for the community good and the safe of the community. But in Ghana people have realised that this is not possible, so we need to take into account that these people need to be compensated. They will not be remunerated but they will be receiving a stipend, remuneration for their work. Then they need bicycles, they have to go to schools, households, (learn) how to ask questions related to sensitive topic.’ (Manager at PubOrg 2)

‘Community Child Protection Committees, they live in the communities, about eight/ten members. Amongst these groups, four or five were selected and trained as data collectors. They live in the communities and once every six months they collect information. We are integrating this in the local administration system. So we are not paying anybody to do these surveys, which would be expensive. So these are the people who live in the community.’ (Manager at PubOrg 3)

The above quotes describe how the new child labour monitoring system will operate. There is no ministerial labour inspector or expansion officer responsible for monitoring the issue of child labour in Ghana. Ultimately, the new system aims at being a community effort towards legal enforcement.

¹⁵⁷ Personal communication with the directors at PPP1 & 3.

So far I have described how companies adopted an ‘NGO working style’ to tackle the issue of child labour – their strategies in fact were mainly project based and lacked a comprehensive approach which only the government could develop through a national plan.

Following the first ten years, the industry changed its strategy and began working with the government of Ghana to drive the strategy towards increased government engagement in public policy and legal enforcement.¹⁵⁸

Representatives of ChokoComp 2 and 4 interviewed highlighted that there is a problem related to vulnerability and that the government has the duty of managing public policy. Yet companies continue to receive calls to work together with NGOs to promote social policy and legal enforcement by building schools, training teachers and removing children from the workplace.

Companies continue partnering with service delivery NGOs, neglecting other stakeholders who have started working to demystify budgets, by monitoring national budget allocations and public spending. Some isolated NGOs outside cocoa partnerships operate towards ensuring financial resources are secured through taxation and by combating corruption via transparent budgets (see chapter 3).

However, major NGOs continue to portray the idea that the government is sorely lacking resources. This approach neglects the economic success Ghana has enjoyed over the last decade, the conditionality imposed by the World Bank ultimately justifying the political role of companies.

INTERNATIONAL NGOS, TRADE UNIONS AND THE INTERNATIONAL LABOUR ORGANISATION

Trade unions have always participated to cocoa partnerships to represent the rights of workers. However, since a small number of cocoa farmers are unionised, during the first ten years of cocoa partnerships, trade unions participated in the ICI partnership, but mostly to represent the interests of employees of companies:

¹⁵⁸ Personal communication with directors at ChokoComp 1 & 4, PubOrg 2 & 3.

'We represent workers from Nestlé, Kraft all of those. One of the biggest challenges for the ICI is that there are no farmers' representatives there.' (Member of TradeU3)

Farmers were therefore not represented in cocoa partnerships for more than a decade. Only in 2012 the ICI invited the General Agricultural Worker Union of the Trades Union Congress (GAWU) to represent the farmers' interests on board. During my interviews directors of ChokoComp 4 and 5 argued that the absence of farmers in cocoa partnerships constituted a great impediment to the success of partnership projects.

As stated earlier on, following the first ten years of cocoa partnerships, the ILO has also come to play a greater role through, for example, a partnership with the industries and the government of Ghana which will contribute to the implementation of the child labour monitoring system. This change of partnership strategy, to include organised labour was the result of a decision taken by the industry to divert funding towards public actors such as the government of Ghana and the ILO.¹⁵⁹ These need to be analysed, therefore, as they influenced the way child rights are being advanced through partnership funded projects.

Traditionally NGOs, despite being at the forefront of the fight against powerful actors, have not been the subject of analyses of power, (Baviskar 2001; Ghosh 2009; Bebbington and Riddell 1995; Noyar 2008). However, large, international NGOs partnered with players within the chocolate and cocoa industries played a crucial role in the first ten years of partnership activities in Ghana. During the first ten years, cocoa partnership projects were largely run in NGO-style, at farm and community level and limited to cocoa supply chains. Project activities in Ghana led to overlapping and fragmentation of remedial projects, without any overarching and centrally located pressure upon the government to oversee and ensure the application human rights standards. This has been explained earlier in this chapter.

Ultimately, during the first ten years of cocoa partnerships, NGOs demonstrated their ability to exert power over the proposal, design and implementation of projects.¹⁶⁰ Their project proposals focused on cocoa supply chains as their main donors were companies operating in this sector. NGOs were (and remain) privileged interlocutors of companies for a number of reasons. International NGOs such as VSO, Solidaridad and Care International have become

¹⁵⁹ Personal communication with the directors at ChokoComp 3 & 4.

¹⁶⁰ Personal communication with the directors at PPP3, ChokoComp 2, 3 & 4, a member of TradeU2 & 3 and a manager at PubOrg 3.

highly professionalised and business-like. The senior representative of ChokoComp 2 explicitly said that their partner Solidaridad was invited to become more business-like to improve their collaboration. Meanwhile, NGOs were looking for new financial resources at a time when statutory funding had been reduced:

'In the last few years there has been a shift, where particularly NGO have seen that the power of corporations over government and the power of corporations in the all global political economy is so great that it makes more sense strategically for the NGOs to work in partnership with them, and particularly when it comes to huge amount of money. [...] Even after the crisis, there is this belief amongst some NGO that the private sector has to be the way forward, because they see this as an unstoppable tide that they have to dive with, rather than resist it.' (Director at NGOß)

The above factors moved NGOs closer to big corporations and partnering with NGOs reduced the need to partner with trade unions.

Trade unions were less interesting to companies for three reasons. First, conflicts over labour rights issues are generally higher between companies and trade unions.¹⁶¹ Second, cocoa farmers remain poorly unionised, although GAWU is making good progress in this regard, having unionised 5000 farmers. Third, trade unions do not operate as service delivery agencies, a characteristic attributed to NGOs. Conversely, trade union representatives expressed the view that companies should take care of ensuring human rights due diligence and governments should ensure the sustainable delivery of public services.¹⁶²

For ten years companies saw NGOs as the most suitable partners in tackling the issue of child labour. On the one hand, NGOs asked companies to contribute more money to cocoa partnerships to solve the problem of child labour.¹⁶³ On the other hand, they presented themselves as being specialists in the fight against poverty and, as such, the natural partner for companies. As a consequence, companies saw NGOs, and more recently the ILO, as being the main experts.

In addition, the widespread presence of NGOs carrying out projects related to child rights throughout Africa raised the NGO profile in the eyes of companies which clearly saw a value

¹⁶¹ Personal communication with one member of TradeU3.

¹⁶² Personal communication with members of TradeU2, 3, 4.

¹⁶³ Personal communication with the director at ChokoComp 3.

in being associated with these ideals for reputational protection purposes (Roberts 2003). The factors mentioned above convinced businesses and the US government, at least for some time, that NGOs had unique expertise to leverage in terms of child rights advancement. Therefore, during the first years of cocoa partnerships, businesses saw NGOs as being the most suitable group to work with in order to address child labour along the cocoa supply chain in Ghana.

Despite the relationship between NGOs and businesses remaining solid, in recent years companies have changed their views on what, according to them, will work to solve the problem of child labour in cocoa supply chains. They have adopted the view that sustainable results can only be achieved by engaging with the government of Ghana and farmers, hence they have begun to favour partnerships inclusive of these parties. The Ghanaian government and farmers are now playing a major role in programme design, delivery and coordination.

In a new development some companies have started designing projects themselves and seek a service delivery NGO to implement them.¹⁶⁴

Big NGOs such as Care International, VSO and Solidaridad believe that ‘more business’ is the solution to reducing poverty and human rights violations, diverting attention from the role that the government of Ghana should be playing as duty bearer and efficient tax collector.¹⁶⁵ They have a conviction that business skills can solve problems related to human rights and poverty (Zammit 2003) in cocoa farms. This is self evident from Care International’s words spoken during a public interview:

‘We realised that corporations can do so much more than just philanthropic funding [...] We looked for those companies that were looking at the developing world as important to their business, not just only from a CSR and philanthropic perspective’ [...] ‘The power came when we leverage our network with Cargill on the ground.’ (Care International interviewed by Center for Strategic & International Studies)¹⁶⁶

Nevertheless, as Hopkins (2003) explains, companies will never be able to eradicate poverty and promote human rights on a broad level. Their main concern does not lie with general

¹⁶⁴ Personal communication with directors at ChokoComp 2 & 4.

¹⁶⁵ Personal communication with managers at PubOrg 1 and ChokoComp 2.

¹⁶⁶ CSIS website: <http://csis.org/multimedia/audio-interview-michelle-grogg-cargill-and-radha-muthiah-care-their-innovative-partnership>

public interest and national policy.¹⁶⁷ Rather, their main goals and expertise relate to advancing private business interests; as such, their concerns and efforts will inevitably focus on increasing cocoa production.¹⁶⁸

The combination of NGOs and businesses working together favoured general acceptance of the view that the skills of businesses, non-profits and international organisations could offer solutions to addressing human rights issues and tackling poverty (Zammit 2003):

'What the cocoa farmers are dealing with, the problem is that you can't address any of these issues in isolation, so as part of productivity, income, education, health, sensitisation, livelihood.'
(Director at ChokoComp 4)

Fleming and Jones (2013) describe this as the prevalence of 'economic rationality' in all spheres of our society, where the economy is not considered as a form of ideology but as being based on 'objective principles' such as lower costs and effectiveness (Žižek 2010:92). These are principles present in partnerships:

'(t)he idea of pulling together to "get things done" seems an eminently sensible one. Most discussions on partnership between the UN and the private sector assume that, by definition, the private sector has a wholly positive development role: it creates products, employment, new technology and production facilities that all lead to economic growth and rising standards of living. If, in addition, businesses made greater efforts to adhere to labour, environmental and human rights standards, particularly in their activities in developing countries, their contribution to development would be even higher. And, were they also to invest more in developing countries, their net contribution would make all the difference to the prospects for world development'
(Zammit 2003:2).

If, on one hand, NGOs manage to present themselves as leaders in poverty relief strategy and human rights policy, then on the other hand, one company explained, they cannot avoid partnering or engaging with major corporations these days:

'NGOs, even if they do not want to partner with business they want to engage and help with policy issues. [...] The NGOs almost seem like a consultant, helping us to tackle issues in the supply chain. [...] So it is a partnership with an NGO, but it is also helping us getting things right.'
(Senior officer at ChokoComp 1)

¹⁶⁷ Personal communication with directors at ChokoComp 2, 4 & 5.

¹⁶⁸ Personal communication with directors at ChokoComp 2, 4 & 5.

Existing literature on partnerships fails to discuss the way NGOs exert power. Chapter one presented some of the main ideas surrounding power holders in partnerships, but mostly the views discussed describe power as lying with multinationals only. NGO strategies are seen as being moulded by big multinationals and foundations (Edwards 2013) and the political power of NGOs is never addressed or analysed in partnerships.

However, NGOs are by no means passive organisations whose actions and strategies are coercively shaped by business, due to the latter's economic power. Rather, it is the fascination expressed by NGOs in relation to economic rationality that leads them to shape strategies and actions that fit big companies' goals (Wallace 2004). NGOs even present themselves as being specialists/consultants whose skills are needed to guarantee companies can achieve their goals and the accountability required within partnerships.¹⁶⁹ This is proved by companies themselves:

'We partner with whose we feel we have the agenda most aligned and the objectives most aligned and that we see can make a practical difference.' (Sustainability specialist at ChokoComp 2)

'We are looking for partners that share the same objectives but also who want to share the same approach to some degree that is important to us. Because we want to make sure that we do things that support the local communities with which we are doing business but we have to recognise a distinction between those organisations that are much more campaigning and have a policy agenda and those who have much more skills and implement on the ground.' (Senior officers at ChokoComp 5)

While NGOs have influenced the agenda of partnership projects, on the other hand, NGOs had to reshape their organisations in order to adjust to this new form of collaboration with companies. Big NGOs have started changing their work attitude and style, corporatizing their organisations (Wallace 2004). A company representative in fact explained that language, working style and different attitudes in relation to time and resources are factors which made business-NGO relations particularly challenging.

As the company representative explained, NGOs changed their structure and way of working to partner better with business:

¹⁶⁹ Personal communication with the director at PPP3.

'Some of them are very professional, with limited resources, their staff may or may not know their work very well, they tend to be concerned with things in which we are not, we have different interests. With some of them we work very well, with Y¹⁷⁰ and they were very responsive when we told them to get more business-like, they have become and grown in a much more service providers' role'. (ChokoComp 2)

The strong alliance between businesses and NGOs resulted in a number of projects being implemented successfully around cocoa supply chains, whereas coordination at the national level remained extremely weak.

'Last time I went to a conference and found out that an NGO was leading a US \$10 million worth project in two communities. 10 million in two communities, when the government can barely get two!' [...] 'In Ghana we have worked with a lot of NGOs [...] to address the issue. In our work in the last ten years, what we have seen is that the work approach does not help anyone. Programmes and project approach is the beginning of systematisation. [...] You must be an organisation which is able to address the problem even if the money (funding) is gone. NGOs which have tried to organise farmers, have gone when the project finished.' (Member of TradeU 2)

Ultimately, business-NGO partnerships are subject to two main weaknesses. One, financial sustainability cannot be guaranteed; second, project scope is limited by the business interest of companies (in this case it is limited to cocoa supply chains) as well as by the NGOs' need for funding - projects must align with the interests of their donors (companies). This means projects cannot be comprehensive and sustainable in the long-term.

NGOs in Ghana have even come to play a strong role in cocoa extension programmes, which are traditionally governmental work. As a PPP leader explained:

'agricultural extension is government job, no NGO and no business' job. It won't be sustainable if it is NGO's job. When I mean government I mean extension services and research institute working together not only to develop the technology, but also some sustainable extension system. This is how it works in the USA, you don't see NGOs going around to teach farmers how to grow wheat. But here it happens because here the government, 20-30 years ago were taken out of the extension system because of financial restructuring coming from international financial institutions. So

¹⁷⁰ The name of the organization is kept anonymous.

we are getting back with some difficulties and this is why sometime we have discussion, because when the government withdrew the NGOs took it over.' [...] 'In Ghana we have the COCOBOD, and they provide a lot of services to the cocoa farmers, things like spraying, helping them improve seeds so that they can replant their cocoa trees.' (Director at PPP3)

During the first decade the strategy and discourse of partnerships were very much dominated by the NGO style of working and inevitably by business interests.¹⁷¹ For a decade, NGOs held strong political power, considering that companies were looking to them to find a solution. The NGO way of working was considered to be the common sense approach.

This strong political role attributed to NGOs was particularly favoured by the assumption that they had to know more about addressing poverty and child labour than business players. This is interesting, considering that 50 years of NGO work has proven that their work on public policy only has the ability to achieve limited results (Vivian 1994; Zaidi 1999).

The ways in which companies are designing their strategies in relation to the certification of cocoa demonstrates another way in which NGOs exercise power. As a result of NGO pressure (the 10 Campaign in 2010), the perception arose that certification should guarantee that chocolate is produced free of child labour.

But as a company representative admitted, the fact that a chocolate bar is certified child labour free is not a guarantee that children are not exposed to hazardous work within the sector. In fact, inspections are not frequent and child labour can be easily hidden. There are also other risks related to the widespread adoption of the fair trade label that has recently become so popular and is held in high regard:

'Fairtrade is a dangerous path. I understand that the average consumer in Europe does not want to consume chocolate produced by children. But how do you ensure this? Why can't Ghana develop a system within the country? Why companies should come from another country, with different economic interests and different ideologies who would not understand labour issues. Fairtrade companies never bring the topic of labour rights on the table and they bring their package on how to address labour issues. Fairtrade certification groups should come to understand that talking about labour rights[...] you have the money and you can bully around

¹⁷¹ Personal communication with ChokoComp 4 and manager at PubOrg 3.

and do things you want to do. Fair-trade is FOR business! The next problem we are going to have is gonna be about certification.'
(Member of TradeU2)

When looking at cocoa partnerships, the most interesting role is played by trade unions, which initially I mistakenly assumed were participating in cocoa partnerships to represent farmers. As mentioned earlier, GAWU has only recently become involved with the ICI. Other trade unions already working with the ICI represented company workers and not farmers, although they were trying to represent the interests of workers overall.

At a time when NGOs were increasing their political profile, trade unions were becoming weaker and marginalised interlocutors (Blainpain 2000; Utting 2005).¹⁷²

'This (informal sector) is the area where most workers are exploited. The role of trade unions is vaguely important in relation to this, a counterbalance in weight of the power of business. But I do not think it is flexible and dynamic enough to be providing that weight given the nature of globalised economy. I would not enter a philosophical analysis. (Director at NGOy)

'Most of the times they have not been able to provide added value to their members. In Africa, trade unions have no money and they are big on speeches and very small on actions. They do not look at other workers which are emerging while other is disappearing. The trade unions are not recognising that it is not absence of the state the problem, but that the state is equally subject to the market this days, they did not framed their vision of what society and market is becoming.' (Senior official at PubOrg 1)

However, two companies (ChokoComp 4 and 5) expressed dissatisfaction in relation to the absence of farmers' trade unions in cocoa partnerships. This could be seen as a partial acknowledgement that, even if trade unions are considered to be outdated and inflexible, their members are still valuable interlocutors.

Some companies, and for some time also, international organisations, have preferred engaging with NGOs instead of trade unions (Blainpain 2000).¹⁷³ The latter have, for a long time, underestimated the linkages between the globalised economy, modes of production, and labour rights (Gallin 2000).¹⁷⁴ This factor, together with externalisation processes where production is delocalised, increasingly atypical work arrangements (i.e. part-time, casual,

¹⁷² Personal communication with representatives from all five companies, one NGOy and TradeU3 & 4.

¹⁷³ Personal communication with a member of TradeU3 & 4.

¹⁷⁴ Personal communication with members of TradeU2 & 3.

fixed term, self-employed, home workers etc.) and a new web of employment relationships spanning across countries, has resulted in a progressive decline in the number of trade union members globally (Gallin 2000; Raday 2004; Teklé 2010).

The high profile nature of NGOs versus the slow response of trade unions to adapt to the challenges posed by globalisation hindered the latter's position in the first years of cocoa partnerships.¹⁷⁵

The major claim made within the literature is that while workers and trade unions have lost much of their power, we are heading towards a process of privatisation of labour rights (Blainpain 2000; Utting 2005; Gallin 2000; Craig et al. 2006; Arthurs 2001, 2006).

The privatisation of labour rights as interpreted in the existing literature has occurred as a result of businesses developing their own codes of conduct alongside public labour inspection being replaced by private auditing. However, my research demonstrates that the privatisation of labour rights goes beyond the mere adoption of codes of conduct and private labour inspections. Cocoa partnerships, particularly within the first decade of their operation in Ghana, demonstrate other features of privatisation of labour rights. During the first ten years the process of privatisation of labour rights took place due to the combined role of NGOs and businesses. Despite the assertion that NGOs would guarantee accountability of the work of partnerships, NGOs (as members of civil society) are and remain private organisations (Gramsci 1966; World Bank 1995).¹⁷⁶

The monitoring of child labour remained limited to local communities in the cocoa sector, where NGOs were accountable to the companies and donors they were partnered with, and companies operated with the goal of solving the problem within their supply chains.¹⁷⁷

Although cocoa partnerships initially operated within local districts, they did not promote the importance of the government as a duty bearer. No one denies their attempts to advocate for a greater financial commitment from the Ghanaian government in relation to child labour issues in cocoa farms. However, the role of the government, as described throughout this chapter, remained limited.

¹⁷⁵ Personal communication with members from TradeU3.

¹⁷⁶ Personal communication with directors at NGOß.

¹⁷⁷ Personal communication with managers and directors at PubOrg 2 & 3 and ChokoComp 2, 3, 4 & 5.

During my interviews, one of the major problems raised by industry players was the low financial contribution which has come from the government of Ghana to date:

‘The last time I attended the meeting, they (NPECLC) needed \$1.6 million dollars to be able to roll out the pilot. And sometime I ask myself, is this really the way we want to proceed? How sustainable is it?’ (Senior official at PPP2)

In response to public pressure, in case of missing public money and in response to wastage of public resources, businesses and the US government are contributing the most from a financial point of view. The issue is what will happen when their financial contributions come to an end? Or indeed, whether or not they will ever come to an end?

Newer and more recent partnerships have moved in a different direction which sees the involvement of public players. The ILO is involved in the adoption of the child labour monitoring system, which is already used by the ILO in other projects of West Africa. In addition, the government of Ghana plays a role in overseeing activities and rolling out the new monitoring system.

Recently, the US government and business sector’s fascination with the expertise of NGOs moved towards a fascination for the ILO’s recipe to solve the problem of child labour: the child labour monitoring system.¹⁷⁸ This is revealed by the way Senator Harkin and one company representative who talk about the child labour monitoring system, a self-regulatory measure operating at the community level:

‘The time is now to get a good monitoring system in place with the ILO and to make sure that we know the benchmarks and we know how many children have been taken out and what has been done about getting them into school, remediation...and again, we will look at these’. (Senator Harkin, CNN interview)

‘The problem is how do you monitor what goes on in these farms? I think the best idea I have heard is: community based, where communities take on the responsibility to see that the members of their communities are not breaking the law. I think this whole question of monitoring is a tough one, we can write codes of conduct, we can say that farmers work on productive farms, that they should be able to produce at least one tonne per hectare, they should protect the environment and respect labour rights.

¹⁷⁸ See interview at CNN.

Everybody can say, but how do you make it happen on the ground? People would like to think that the certification is a way to get there, but the real issue is that there is no system that can afford to have enough monitors on a million farms everyday or visit farms periodically, even if they can what kind of questions are they going to ask? You need someone there observing. We are trying to strengthen certification but our current view is that in order to protect children this has to be done at the community level. We can do this on a community by community based, not on a farm to farm based.’ (Director at ChokoComp 4)

This new way of looking at child protection seems to have potential, however, as some interviewees stated, the child labour monitoring system has failed in some African regions and will only operate in so far as community data collectors are paid.¹⁷⁹ So far the US Department of Labor and industry players have financially contributed to the system through their partnership with the ILO.

Some representatives of PubOrg 2 and 3 and all companies interviewed praised the new approach, which in this case sees greater involvement of the government of Ghana. However, only time will tell whether this monitoring system can bring about the expected outcomes in terms of reduction of child labour.

When asking the question regarding the financial sustainability of the child labour monitoring system to a member of a public organisation, the reply was as follows:

‘No, the issue is that this is a community based exercise. What we need is mobility; you need to ride a bicycle to go collect data within the community. They have their bicycles. When they collect the data, they communicate them to the district. At district level they have their computers and software to analyse the data and generate the reports. Nobody is paying the districts for doing this.’ (Manager at PubOrg 3)

However, the employees of one NGO and one public organisation drew their conclusions based on their own experience and explained:

‘The child labour monitoring system is a policy document and sees the establishment of the child labour monitoring groups. It is very expensive and I have always questioned the sustainability of it, because you pay data collector and it is a huge amount. Any kind of

¹⁷⁹ Personal communication with senior officials at PubOrg 2 and NGO6

volunteer system, when they don't get pay you will not get things done. In any child monitoring group there is 16 people, and once you pay one group, the others will want to get paid. Each community has a monitoring group.' (Director of NGO δ)

As it is today, GCLMS¹⁸⁰ is too expensive and impossible to replicate. It is not that it is too expensive, but if you multiply it at the national level it ends up being very expensive. Training people costs a lot of money. Let me explain you a bit more how the GCLMS works. The idea is through GCLMS there will be two types of structures being created at the district and community level. The district is the District Child Labour Protection Committee where you have members from the district assembly, members from the district labour office, from the social welfare office...all those relevant actors at the district level are involved. Then there is the Community Child Protection Committees (CCPC) that are also supposed to be created and they are the engines of the whole system. These are voluntarily created groups, but the idea is to go to the community and try to sensitise people in the community especially the opinion leaders, the chief of the community. They would hopefully get together and try to assess the situation in their communities and try to come up with some remediation actions. In these CCPC a number of people are going to asked to be data collectors. These are community people, so they have no training and they don't know how to collect child labour data. These people need to be trained. In principle this should be done on a voluntarily basis, because this comes with the idea this is for the community good and the safe of the community. But in Ghana people have realised that this is not possible, so we need to take into account that these people need to be compensated. They will not be remunerated but they will be receiving a stipend, remuneration for their work. Then they need bicycles, they have to go to schools, households, how to ask questions related to sensitive topic. It is more the start up cost, but it is still very early and we are analysing it. (Manager at PubOrg 2)

Ultimately, this new child labour monitoring system is meant to be a community effort to enforce legislation. However, start-up and maintenance costs might decide the future and durability of this legal enforcement mechanism. Questions should be asked about the future of this body when ILO funding comes to an end.¹⁸¹

¹⁸⁰ Ghana Child Labour Monitoring System.

¹⁸¹ Personal communication with one manager at PPP1.

The US government, through Senator Tom Harkin and Congressman Engel, exerted strong pressure upon the government of Ghana and the chocolate and cocoa industries. First, they pressed for the creation of partnerships in the cocoa sector of Ghana to address child labour. Second, they used permanent control to ensure partnerships continue to exist, and that businesses increase their financial commitment and the government of Ghana takes some serious measures to address the worst forms of child labour taking place on cocoa farms. Third, the US government used threats (in the form of sanctions and legal punishment) to jar the business and government of Ghana into concrete action.

The power of the US government has brought about some changes in the way child rights are advanced. Here we see a foreign country (the US) interfering in the domestic matters of Ghana, including the enforcement and efficiency of measures aimed at protecting child rights. As a result, for the first time, the government of Ghana has dedicated a portion of its budget to addressing the issue of child labour (it remains to be seen whether and how this money will be dispensed). Industry players have also committed substantial amounts of money towards programmes which include the provision of public services (e.g. paying for child education, training teachers, building schools) and the implementation of the child labour monitoring system.

The first ten years of cocoa partnerships saw the Ghanaian government playing a marginal role which was limited to local district level, without the central government ever sitting on any partnership boards.

The economic power of the industry players became evident when they decided to change their former strategy and move towards greater inclusion of the government of Ghana. The industry has supported this shift in mentality by financially committing to partnerships which include the government of Ghana (see the CLCCG, and partnership with the ILO).

I have analysed the power of the government of Ghana from two different angles.

First, I concluded that following ten years of playing a marginal role, the government of Ghana has regained some political power in relation to foreign players operating within the country. It has done so by gaining a place on partnership boards, regaining its legitimacy as a duty bearer and taking responsibility to monitor child labour and related projects at the

national level. However, this change only took place following a shift in mentality on the part of industry players – it was not brought about by the government itself.

Meanwhile, the US government continues to exercise control over and provide financial support to partnerships between the government of Ghana, businesses and civil society. Despite the recent increased involvement of the Ghanaian government, its weaknesses, as in the past, remain visible in the face of political and economic power held by private (NGOs and business) and foreign public players (US government and UN agencies).

Second, despite its weak political power in relation to foreign players acting in its own country, the government of Ghana exerts a high degree of power upon its citizens. It does so by adopting a ‘passive attitude’ towards its own duties as duty-bearer.

By promoting a general notion that money is not enough, it willingly delegates part of its sovereignty to private (businesses and NGOs) and foreign (the government of the US and the ILO) public actors. Ultimately it delegates its responsibilities to third parties which act as duty bearers and legal enforcement agents in another country.

Pressures coming from civil society actors and the US government encouraged industry players to get involved in child rights advancement; hence they ultimately played a major role in activities aimed at bringing about legal efficiency and enforcement. This had a double effect. Some companies developed a sense of entitlement and obligation towards public policy, whereas others began questioning the extent of their future engagement in public service functions, arguing that this is not among their duties. The idea of private responsibility is moving beyond philanthropy.

The progressive stepping in of private actors into legal enforcement and efficiency roles has been accompanied by a declining role of the government of Ghana in relation to these same activities.

The first decade of cocoa partnerships saw a prominent role being played by businesses and NGOs in addressing child rights on cocoa farms. This resulted from an assumption made by the business side: that NGOs had the expertise to address poverty and child labour. It also came about due to the need of NGOs to find new sources of funding and the belief on the NGO side that business had the ‘business solution’ to poverty. This close relationship between

NGOs and businesses favoured an approach which saw money gravitating mainly towards projects on cocoa farms.

The NGO-style of working on single funded projects and the focus of companies on cocoa supply chains meant measures aimed at promoting child rights had limited scope and reach. Additionally, the lack of national breadth and coordination ultimately brought limited results. The sustainability of projects was only possible as long as the companies and US government funded them.

Following the first decade, companies realised that the absence of the government of Ghana in managing the playground was not guaranteeing sustainability and that 'institutional change is far more complex than promoting improved stoves . . . [and] in general, development. NGOs are not equipped to address broad institutional issues' (Vivian, 1994:188; Zaidi 1999:268-269).

Ultimately, companies began to fear an endless financial commitment would be required on their side to address child labour. This is why the business sector increased its financial commitment to two public players: the ILO and the government of Ghana, who are now both working on rolling out the child labour monitoring system.

There is a new widespread belief within recent partnerships: that the child labour monitoring system devised by the ILO will provide a suitable way to enforce the rule of law in Ghana. However, some organisations raised concerns regarding the sustainability of this newly praised method. First, since the beginning, the US Department of Labor had to provide additional resources to pilot the child labour monitoring system. Second, implementation of the child labour monitoring system has already encountered difficulties in other countries of West Africa where it was introduced in the past. Third, some believe that the child labour monitoring system will only operate so long as funding is available.

Child rights advancement in Ghana has been shaped by the way power is distributed between partnership players. Over the first decade of partnerships, legal enforcement and efficiency were localised at project level in relation to cocoa farms.

As businesses and NGOs rushed to fix the problem of child labour on cocoa farms, their projects focused on public policy and legal enforcement. The power of the rule of law is traditionally envisaged to be in the hands of the state. However through the means of

partnerships, the power over mechanisms to change illegal practices results delegated to a greater number of players and circumscribed to the limits of projects that attract their attention.

With the formation of new partnerships, the government of Ghana has regained some of its traditional power over mechanisms to change illegal practices. However, this power was essentially passed on by companies and public players, not regained by the government itself.

However, given the government of Ghana has declared that it has limited financial resources, the US government and businesses continue to play a strong role in terms of providing financial support and supervision.

The political status gained by industry players, since the Global Compact was formed, on the basis of their economic power and alleged know-how in doing business, brought them the status of legal enforcement contributor/public policy dispenser. The limits of these roles will be understood throughout the coming years. However it is becoming evident that they will not be limited to developing codes of conduct and privately auditing human rights.

The story of cocoa partnerships makes us realise that we are not merely dealing with powerful companies promoting company codes of conduct over legally binding measures (privatisation of labour rights). The situation is more complicated. The process of the privatisation of labour and human rights takes place through combined action within partnerships. This takes three forms.

First, we see a tendency of businesses to partner with NGOs. The former see the latter as experts in human rights and poverty relief, despite evidence indicating that the impact of NGOs in this regard is limited (Zaidi 1999, Vivian 1994). On the other hand, NGOs see businesses a source of funding. NGOs also hope business success may free poor people from poverty.

However, we have seen that companies cannot develop programmes aimed solely at promoting the general public interest and national policy, as this is not where their business interests lie (Hopkins 2003).

Companies direct their capital in a way which enables them to achieve the greatest impact for their business; in this case that involves combating child labour on cocoa supply chains.

Ultimately, I would argue that the privatisation of labour rights takes shape by seeing a prevalence of private players which focus their efforts on single niches of human rights. A specific niche of human rights is thereby selected by identifying where major players and money gravitate. However labour rights cannot be nationally advanced in this context for reasons already addressed in this chapter.

Partnerships tend to focus on a particular aspect of human rights in relation to specific supply chains; this means that ultimately their results may continue to remain limited. Foreign governments and companies may continue working together in Ghana to combat the use of child labour in cocoa supply chains. However, addressing the issue of child labour in isolation, without tackling the core causes of poverty and a generally low standard of human rights, may never bring about successful, long term results.

As I introduced in this chapter, partnerships address only some causes of poverty which are strictly related to the cocoa supply chain. This is inevitable as partnerships are formed by organisations (businesses) which have a clear interest in working on cocoa supply chains. NGOs and public organisations are attracted by this same sector as money is available due to public pressures upon the industry players to introduce ethical business practices.

In the rush to fix issues related to child labour around cocoa supply chains, exogenous and endogenous causes of poverty and low human rights standards are somehow addressed but never to their full extent.

Partnerships attempt to address exogenous factors of poverty resulting in low human rights standards by redistributing wealth along the supply chain. However, the highest proceeds concentrate in the trading and adding value to primary commodities, not in the production of primary commodities. The price of commodities moves in what economists call commodity super-cycles which last 50 years, where prices peak at the beginning and slowly declines (Walker 2013). The recent peak in commodity prices indicates that the world economy is at the beginning of one of these cycles. However, since 1850, soft commodities like cocoa have seen their prices fall by more than 50% (Walker 2013).

It is for this reason that big companies are expected to fund projects which impact public policy and legal enforcement. However, as seen so far, funding efficiency and law enforcement only in a specific area does not bring long -term results.

Moreover, as some organisations have pointed out, financial aid coming from partnerships is increasingly allowing the government of Ghana to avoid fulfilling responsibilities owed to its own citizens.

Partnerships do not and cannot address pivotal endogenous causes of poverty such as the existence of an inefficient tax collection system resulting in corporate tax evasion, a lack of transparency within the taxation system and widespread corruption – aspects which are at the heart of good governance (Green and Ward 2004; Honkaniemi 2010; Sackitey 2013) as well as efficiency and enforcement of child rights (see chapter 3).

My research has shown that partnerships, in their current form, cannot focus on issues such as a lack of funds needed to invest in a country suffering from inept international and national political decision-making. For example they cannot address some of the major causes of poverty, such as a weak and inefficient taxation system, prevalent corruption and conditionality imposed by international financial institutions. These issues are beyond partnerships' reach. However, some NGOs (see ISODEC) have already started working on governance issues by focusing their attention on ensuring tax transparency and piloting their work in the mining sector. Nevertheless, these NGOs are not considered within strategic cocoa partnerships, since their skills are not perceived as being useful at first sight.

The boom in soft and industrial commodities in Ghana did not bring about the boost in tax revenue that could have provided the funds needed to make important social investments within the country (Sackitey 2013). In 2013 Ghana, despite being considered the 'Africans star' due to its successful economic performance, saw its deficit reaching 12% of its GDP (Sackitey 2013).

The country experienced a shortfall in domestic revenue due to low corporate income tax rates, heavy conditionality imposed by the World Bank, tax holidays being granted to investors, rampant corruption and a single spine salary policy¹⁸² introduced by Kufuor in 2006 (Ryan 2011; Sackitey 2013; UNCTAD 2008).

¹⁸² All public sector employees are linked to one common salary structure independently of qualification and organisation.

While the government is facing allegations of corruption which also occurred under the Mahama presidency, parliamentarians have increased their salaries and ex-gratia payments were offered to outgoing parliamentarians (Sackitey 2013).

The above causes of poverty cannot be addressed in partnerships out of fear that clashes might put at risk the collaboration existing among different organisations. However, good governance in public policy necessitates levies and public funding. Analysing issues of taxation and corruption become, therefore, imminent when considering poverty reduction and human rights promotion.

Labour rights have become privatised as partnerships take the form of a closed apparatus with its own rules and modus operandi: a sort of mini-state within a state. In this sense, the main partnerships (like the ICI, the World Cocoa Foundation and then the CLCCG) are composed of mini-partnership apparatuses (businesses-NGOs, businesses-ILO etc.). Mini partnerships create a parallel system of surveillance to the state.

Law is thereby advanced within the space of partnerships. As such, moving beyond the specific interests of such partnerships can be quite difficult. To a certain extent pressures from civil society, foreign governments and the economic power of companies participating in PPPs to fix their supply chain, prompt all players to take action and gravitate towards a specific business interest. This is why, in fact, cocoa partnerships and cocoa farms receive greater funding to advance child labour issues than the fishing industry, for example.

Money and projects gravitate to areas where industry players have a business interest, where the NGOs have a funding interest and where the local government has an interest in receiving international aid.

CHAPTER 5

CONCLUSIONS

In chapter one I presented the literature on human rights and partnerships which provided a background for my reflections. The main question this research aimed to answer is:

What are the power dynamics within partnerships and their effects on the protection of children from dangerous labour practices in Africa?

In chapter four I analysed power dynamics within a specific type of partnership – those operating within Ghana's cocoa sector. These partnerships provide a wealth of information as businesses within the cocoa sector are committed to collaboration encouraged via partnerships and have also adapted over time to the challenges they faced (i.e. projects are not sustainable in the long run) and the mistakes they made (i.e. leaving the African government outside partnership boards). Many other partnerships in the cotton, tobacco, mining and garment industries present similar characteristics.

Evidence shows partnerships have a significant impact on the lives of children affected by the business risks related to supply chains, but with some limits. These limits vary as a result of specific business cases and interests, which means that only certain groups of human rights are advanced. Ultimately, when operating through partnerships a great commitment is developed towards a specific group of human rights related to a specific supply chain.

During my writing of this last chapter, John Ruggie, former United Nations Secretary-General's Special Representative for Business and Human Rights between 2005 and 2011, wrote:

‘The guiding principles [...] reaffirm the duties of states to protect against rights abuses involving business, but also clarify the responsibilities of all companies to respect human rights in their own business conduct and relationships. Given the broad backing these guiding principles now enjoy, public-private partnerships going forward should include in their governance arrangements measures to reinforce existing state duties as well as corporate due diligence processes to avoid adverse impacts, and to address them where they do occur’. (Ruggie 2013)

This is not the first time that Ruggie has highlighted the importance of governments' roles to promote human rights compliance and good governance in public private partnerships (see chapter one). However, having explored the inner power dynamics within partnerships throughout my research; the results will enable an enhanced appreciation of the role played by each stakeholder, including governments.

The case of cocoa partnerships provided evidence that, although the importance of state duties is still considered relevant, partnerships have, so far, considered governments as being more like spectators as opposed to duty bearers with clear obligations towards their citizens. Indeed, power dynamics within partnerships provide fertile soil for the diversion of attention away from the role of the government.

Partnership activities centre around specific supply chains, communities and regions as well as specific groups of human rights. As such, partnerships do not have a global vision and breadth, because their work remains locked within the limits of these spheres. This is a result of specific power dynamics which exist between companies, civil society organisations (particularly NGOs) and public players.

Partnerships have gained vast popularity between civil society, public and private actors. Stakeholders believe they all share responsibility to promote good governance and human rights (Bäckstrand 2006; Utting 2002, 2005). This idea follows a widespread belief that in the era of globalisation, the state has lost most of its power to regulate business behaviour whilst other actors have gained powerful positions (Jochnick 1999; Richter 2001; Utting 2002, 2005). My research has explored these power dynamics in greater detail and in this chapter I lay out the reflections that follow my analysis.

There is general agreement over the idea that partnerships act as a powerful tool for advancing good governance and human rights (Bäckstrand 2006; Santoro 2003). Ultimately they have become collective actors of governance where decision-making and implementation (or non implementation) of certain processes follows a practice of shared decision-making (see the definition of 'governance' given by UN ESCAP in chapter one).

Given partnerships contribute to human rights advancement through bespoke project activities, they represent a new institutional arrangement which guides human behaviour

and controls social relations. This new institutional arrangement is in fact not only associated with the state, but other players which have gained international and national relevance.

According to Utting (2002) the power of partnerships is overstated because of the limited role they can play and the limited number of companies involved. Building on these conclusions, this research went further in order to understand the factors which cause partnerships to devise strategies which cannot address human rights in a sustainable way.

Partnerships only focus on specific sectors (Utting 2002) and they are time and supply chain bound. This makes their activities to promote and bring about compliance with human rights particularly vulnerable and unsustainable in the long run. This vulnerability is partly determined by funding interests. Companies are mostly interested in funding projects which benefit their supply chains, while NGOs and public players divert their attention towards those sectors or aspects of human rights which attract greater funding.

However, the power of partnerships cannot be underestimated, especially at a time when they are gathering huge support and their projects are increasingly reaching communities of workers thereby affecting their human rights. In fact, partnerships have established themselves as the new and legitimate actors for human rights promotion.

The momentum of partnerships is changing the way human rights are advanced. Also human rights which used to be claimed upon states, may now also be claimed upon multinationals (Crane 2005; Zimmeri 2009). This claim is not merely over companies ensuring human rights due diligence, but also over companies investing on public policy and legal advancement. This is why it is time to look at the way human rights are advanced through the means of partnerships as well as their inner power relations.

Companies have the power to direct funding towards projects of their interest; their choice is influenced by whether or not they have a business case for their engagement. The ability of businesses to maximise profits and their international influence has lured and led many NGOs and public players to believe that companies must have the solution to eradicate poverty, dispense public policy and advance human rights.

Companies have traditionally been unconvinced about the value of involvement with the UN (Bäckstrand 2006), perceiving NGOs as being more suitable partners as they share similar

goals and strategies to achieve them (Utting 2002). Companies and NGOs forged a privileged partnership where the latter are defined by the former as 'service provider' or 'consultant'.

Through the means of partnerships, some companies have developed a sense of entitlement and obligation towards public policy and human rights. Other companies question the extent of their future engagement regarding legal enforcement and public service provision, arguing that these functions fall outside of their duties.

Companies cannot effectively develop programmes regarding general public interest and national policy since their interests do not align with the goals of such (Hopkins 2003). In fact, their programmes and donations gravitate around their business interests. For example, cocoa companies will pursue projects which have a positive impact on the productivity of their supply chains. The situation is the same for coffee, tobacco, cotton and garment companies.¹⁸³

This does not mean that corporate employees are unethical people without a true social vision. It means that employees work in a competitive environment which demands that they pursue their organisation's interests, or risk being expelled by the system in which they operate (Korten 2001: 202). Thus, as Fleming and Cederstrom (2012:7) explain, employees do not merely do the job, but they are the job, as work moves beyond the office to reach all spheres of social life. This includes projects with a social purpose.

When working in partnerships, employees bring along their organisational interests, expertise and knowledge about their specific business sector. Their work can have a positive impact on the supply chain in terms of human rights protection, but cannot go beyond that.

When companies fund partnerships, their economic power provides projects with clear direction. As a consequence, NGOs and public organisations are drawn towards a certain group of human rights – those which allow them to find the highest chance of receiving project funding. As a result, projects remain restricted to specific supply chains and communities affected by or involved in business operations.

¹⁸³ Personal communication with a manager at PubOrg 1.

But companies, through their economic strength, are not the only players succeeding at exerting their power. NGOs have also gained strong influence in shaping the way partnerships operate in terms of human rights advancement.

Many companies work closely with NGOs and adopt NGO strategies in recognition of their allegedly established expertise. At a time of declining funding, NGOs have recycled their role and asserted their power by presenting themselves to companies as experts in fighting poverty and promoting human rights.

The project based partnership approach is a clear adoption of the NGO working style: local private projects. The work of NGOs over the last fifty years, however, has proven that their parcelled and fragmented action cannot compete with long-term and comprehensive programs which the welfare state can effectively furnish (Petras 1997). Instead, Fragmented services reach only narrow groups of the communities in which they operate, while services are provided cheaply and government are de-responsibilised (Petras 1997).

NGOs have become politically powerful actors (Hardt et al 2001; Scherer and Palazzo 2010). Through the means of partnerships, their political role has increased. Traditionally there are two ways of looking at the power of NGOs. One approach sees NGOs as being the core of civil society with the aim of fostering good governance and challenging powerful actors such as governments and corporations (Baviskar 2001; Bebbington and Riddell 1995; Ghosh 2009; Nayar 2008). According to this view, corporate social responsibility and partnerships would be the consequence of NGO pressure upon companies (Scherer and Palazzo 2011; Barrientos et al. 2008; Harrison et al. 2005; Ryan 2011).

Other authors offer a different approach regarding NGOs, claiming some major international NGOs have turned into Trojan horses of neo-liberalism, where their projects undermine the role of national welfare by promoting self-help projects and the provision of cheap public services (Petras 1997; Wallace 2004; Hardt and Negri 2001).

Petras (1997) goes further by saying that, in their fight against state power, NGOs end up posing themselves as brokers between the protagonists of neo-liberalism, local communities and international donors. If we follow this approach, within the framework of partnerships NGOs have been co-opted to minimise the risk they pose to multinationals (Murphy and Bendell 1999; Utting 2002, Utting 2002b).

However, partnerships show that some NGOs have become more than brokers and campaigners. They are private actors which have come to play a major role in legal enforcement and efficiency (Santoro 2003). Their working style is reproduced in partnership projects and upheld by all parties involved.

The case of cocoa partnerships shows how NGOs have contributed to shaping the way companies consider human rights and poverty. Companies have increasingly adopted NGO-language and devised strategies 'NGO style' to provide solutions to human rights violations along their supply chains. Through partnerships, NGOs and businesses have strengthened their relationships to promote human rights and implement companies' corporate social responsibility programmes through the means of projects, 'NGO style'.

The involvement of civil society in the cocoa sector is seen by partnership members as a guarantee of democratic accountability. As the main weakness of partnerships remains accountability (Bäckstrand 2006), the presence of NGOs was deemed as reassurance in this regard (Utting 2005). This idea follows the conviction that NGOs work independently from the state and as such, they represent moral values and the interests of citizens (Petras 1997).

However, NGOs remain private actors and their involvement is not the result of a democratic process, therefore they have no mandate to represent the public (Petras 1997; Newell 2001; Wallace 2003). As NGOs work independently from the government, they promote the idea that they work on the basis of ethical principles (Hardt and Negri 2001). However, NGOs strive for their survival as organisations and they partner with companies for two reasons. First, they are fascinated by the economic rationality (2004) and believe companies have the recipe for economic success of poor countries. Second, they need to partner with businesses to compensate for a lack of statutory donations. Thus the economic power of companies and their success led many NGOs to come to the conclusion that they had to become more professionally driven (for example by acting as service providers) (Wallace 2004) and that they must partner with companies in order to do so.

NGOs and the UN exercise their own power by influencing projects implemented by partnerships and by dictating moral values while presenting themselves as experts in poverty alleviation and human rights advancement. However, companies seem to still prefer to partner with NGOs, although the UN gains more credibility when a business-NGO partnership fails to achieve its goal.

As this research demonstrated businesses see NGOs as being the custodians of skills needed to address poverty and protect human rights. Their working style, which is projects based, has been presented and is also perceived by some companies, as a common sense and the best way to operate and address child labour.

Businesses and NGOs today maintain a strong relationship through partnerships. Many partnerships such as the Eliminating Child Labour in Tobacco-growing Foundation (ECLT Foundation), the Ethical Trading Initiative as well as those in the mining sector provide examples of strong collaboration between the business and NGO sectors where legal efficiency and enforcement remain weak.

Partnerships legitimise the political role of NGOs and multinationals. This process is strengthened by several factors. First, governments promote the idea that private players (NGOs and companies) should play a role in legal enforcement and efficiency. Second, this same idea is supported by small NGOs through their campaigns and by big NGOs seeking out new funding and greater political participation (Bartley 2007). Third, companies have developed a sense of entitlement and obligation towards public policy, although some have begun to question the extent to which they should be involved in such.

When NGOs partner with companies their political power increases. NGOs in partnerships have established their role as service providers, ultimately detaching themselves from the traditional ideas of civil society, which include challenging power players, fostering good governance and demonstrating a disinterest in political power. When companies fund NGOs' activities, their ability to establish mechanisms to enforce law and affect citizens' rights increases. This defies the idea that NGOs, as members of civil society, are not interested in political power (Van Rooy 2000).

There is a widespread belief, addressed in chapter one, that companies have come to play a powerful role in partnerships. But businesses are not unchallenged masters of the universe (Wolfe 2002). Their political power results from their economic weight, as much as from a set of decisions taken by NGOs and governments, which see companies as the custodians of skills needed to tackle poverty and protect human rights through increased productivity.

I have argued throughout this research that partnerships are particularly employed when a lack of legal efficiency and enforcement persist. However, when it comes to discussing the

causes of these inefficiencies and poor enforcement, poverty is always brought forward as being a factor which can mainly be overcome by increasing workers' pay. The main tendency is to link legal compliance with individual wealth. Though the case of the worst forms of child labour demonstrates that increased salary can contribute to reducing the cases of child labour, this practice will inevitably persist where public policy remains weak.

In African countries partnerships are particularly active where legal inefficiency and poor enforcement persist in relation to child rights. The main causes of such are considered to be legal transplant and poverty as I explained in chapter three.

The transplant of a western legal system and unsuitable institutions to a different context creates a mismatch between law and reality (Meknassi 2010; Teklè 2010). The concept of legal transplant is a way to explain how laws surrounding child labour can be seen as an expression of the power of Western countries (Meknassi 2010; Teklè 2010). However in these market-driven globalisation favoured by governments (Wolfe 2002), certain rules protect those communities from companies taking advantage of poor legal conditions.

Partnerships have become a new form of institutional arrangement to guide human behaviour and control social relations while ensuring legal enforcement as well as efficiency through internal control mechanisms. Issues of governance are only partially addressed by partnerships. In fact, the topics of corruption, loss in tax revenue and tax transparency are not sufficiently addressed. This is because discussing certain aspects of good national governance could threaten the very foundation upon which partnerships rest: this foundation is made up of trust and collaboration.

However, the prospects for raising human rights standards in Africa depend a lot on institutional involvement and good public governance. The problem of lost tax revenue and the issue of corruption affect the ability of many African countries to dispense welfare and enforce the law. As explained in chapter 3, child labour eradication requires a number of activities which span across increasing adult employment, family incomes. It also needs enforcing legislation and funding social programmes and infrastructures which are needed for legal efficiency (Cotterrell 1997).

When companies invest in Africa they are attracted by tax discounts and tax holidays, however their businesses remain under international public scrutiny. When found to be in

breach of human rights, companies may invest substantial resources into partnerships. This is an ironic situation for business, leading one to consider that perhaps investing in countries with an effective tax system and transparent governance to start with could also be in their interest.

Ultimately, ideas surrounding good governance are partially kept outside of partnership forums. Questions cannot be posed about tax efficiency and corruption, yet these affect public funding availability. As funding for partnership projects comes largely from external private sources and pressure is exerted for companies to invest in partnerships and corporate social responsibility policies, no attention is directed towards additional causes of poor governance, for example the operation of inefficient tax collection systems and corrupt practices which impoverish public funding.

Partnerships between civil society actors as well as public and private players attempt to address poor legal enforcement and efficiency by directing the strength of both global and local players towards a specific supply chain (Bäckstrand 2006; Barrientos et al 2008; Ryan 2011). The idea is that neither government nor one single institution has sufficient resources to provide public goods (Scherer and Palazzo 2010; Wolf 2008).

However, partnerships operate by 'granting rights'. In fact partnerships projects follow a decision taken by a group of actors that decide to fund human rights projects around a specific business area and vulnerable groups. However, partnerships as collective actors of public, private and civil society players have no legal obligations to provide support and services much needed for human rights advancement (for example building schools, roads, clinics, providing social support to vulnerable children).

Many argue that by promoting corporate social responsibility a shift in power took place from government to private players (Arthurs 2006; Ashman 2001; Bäckstrand 2006; Blainpain 2000). Present literature on human rights and partnerships argues that within partnerships, multinationals dominate the playing field, ultimately indicating that there has been a privatisation of labour rights (Arthurs 2006; Blainpain 2000; Craig et al. 2006; Gallin 2000; Scherer et al 2011; Cragg 2005). Matten and Crane (2005) even suggest that multinationals have started acting as states, assuming some of their traditional role in public policy.

According to this view, governments and civil society actors have lost power to companies which promote their own codes of conduct rather than human rights due diligence and legal compliance. This means that companies are therefore not subject to the force of state power which could enforce sanctions upon them (Scherer and Palazzo 2011; Shelton 2000).

Scherer and Palazzo (2011) argue that the recent increase in new forms of governance is the consequence of diminishing state power in regulating business within the global economy.

'The decline in governance capability of nation-states is therefore partly compensated by the emergence of new forms of global governance above and beyond the state. International organizations, civil society groups, and private businesses in cooperation with state agencies, or without their support, have started to voluntarily contribute expertise and resources to fill gaps in global regulation and to resolve global public goods problems. At the same time, NGOs that were once focused on pressing governments have begun to target business firms to make them more responsive to social and environmental concerns'. (Scherer and Palazzo 2010: 903)

However, this research demonstrates that, contrary to the general idea of the declining power of governments, states do maintain their power. States continue to exert their power upon society ultimately shaping the way governance is advanced together with human rights.

Despite the above claim, the decline of good governance is a direct derivation of state power both at the international and national level. At the international level states avoid addressing the main exogenous causes of poverty (see chapter 3). At the national level they exert their power in two ways.

Power can be used when encouraging the politicisation of multinationals and their role in legal enforcement and efficiency. State power can also express itself through failing in its role as a provider of public services or by promoting a weak tax system and condoning rampant corruption. Through this last form of power, a passive attitude on the side of the government is reinforced by the knowledge that other organisations will eventually step in to compensate for state failure.

Utting (2002) claims that most partnerships today do not adopt an anti- state attitude as they recognise the value of the government and its regulatory framework.

However, my research also shows that although a government may be involved in partnerships, sometimes it may not be able to manage the multitude of activities that flood its own country. Thus, despite general claims, we should see how partnerships engage local governments and whether they are put in the position of or have an interest in managing the playing field.

This research demonstrates that limiting the role of the government to provide a regulatory framework is not sufficient. The government's role in dispensing public policy to ensure the efficiency of human rights is a fundamental element to ensuring the advancement of human rights. However, a government's financial commitment is threatened by the massive presence of alternative funding sources which support governance projects effectively stripping the government of responsibility.

Partnerships operate where legal enforcement and efficiency (efficiency is defined as the provision of public services and enforcement as ensuring of legal compliance) is weak and particularly in poor countries (Utting 2002). Their strategies are project based and they operate monitoring, reporting, verification and auditing systems (Utting 2005) which strictly remain within project boundaries.

In this context, law is advanced within the space of partnerships which means that moving beyond the specific interests of such partnerships is quite difficult. In attempting to address a precise aspect of human rights which is related to a particular aspect of a supply chain, only one group of individuals receive human rights support - those involved in the relevant supply chain.

Despite partnerships priding themselves on taking a collaborative approach, one based on trust and cooperation, power dynamics, conflicts of interest and turf wars persist between different members. As I write this chapter, Ruggie (2013) has confirmed that difficulties in reaching a consensus and power imbalances pose great obstacles to partnerships' success. These factors, in fact, shape the way human rights are advanced and suffer as a result of coordination difficulties.

Turf wars favour the proliferation of numerous partnerships, some bigger and some smaller. These do not all operate in the same geographical areas, but can sometimes overlap due to poor coordination. Neither companies nor NGOs are in a position to coordinate all the

activities throughout the country. They could perhaps coordinate activities related to protecting child rights along specific supply chains, but not at the country level. Only the government has a national structure to ensure harmonisation of activities and that child rights are protected across sectors.

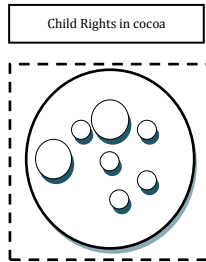
By establishing different partnerships, each organisation attempts to protect its own funding stream and mandate. Different UN agencies and NGOs find themselves in competition to assert their status of 'expert authority' on human rights. Organisations fight over whether they should pursue child rights, child labour rights or business sustainability as a means to fight poverty. Companies try to protect privileged relationships with workers of a specific supply chain and to reach business goals while coping with competition.

In partnerships, companies have the power to influence where money should be directed: whether towards partnerships with NGOs or specific UN agencies which are often considered to be experts in a specific aspect of human rights (Santoro 2003). Trade unions have so far played a limited role in partnership activities. This was partly due to a conflicting relationship between companies and trade unions (Blainpain 2000)¹⁸⁴ as well as NGOs and trade unions (Gallin 2000) and as a result of the privileged relationship which exists between businesses and NGOs.

The results of this research are inconclusive in regards to determining whether or not partnerships should be dismissed. Collaboration has its strength in terms of leveraging reciprocal experiences and expertises. However results do highlight that the proliferation of partnerships over the last ten years has caused a clear problem of coordination of activities aiming at protecting human rights. Collaboration to achieve a common goal and trust are values upon which partnerships allegedly thrive (Fung 2003). However, these are not sufficient to ensuring coordination of activities at the national level.

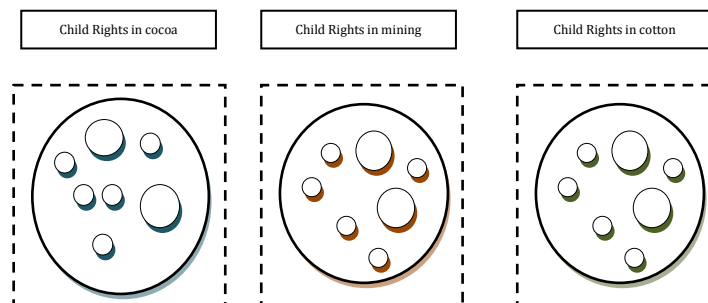
If we try to visualise how particular human rights in a specific industry are promoted by partnerships, this is how it might look: a constellation of small, medium and bigger partnerships working to promote one aspect of human rights within a particular business supply chain.

¹⁸⁴ Personal communication with a member of TradeU4.



Despite the dimension, all partnerships (with their own monitoring and evaluation systems) refer to a common framework which is dictated by the relevant business supply chain (graphically represented by the circle). The square refers to the specific human rights aspect addressed by the subgroups of partnerships. This is how legal enforcement and efficiency remain circumscribed and limited to partnership boundaries.

Additionally, under these conditions, coordination remains a challenge. Small and medium partnerships are frequently being set up or dissolved, creating a fragmented reality of human rights. The same country is likely to host a number of different partnerships in different sectors at any given time. Ultimately, if we want to visualise the situation of partnerships at the country level, this is how it might look:



Let's imagine the above diagrams refer to various aspects of human rights addressed by different partnerships operating in one single country. Each box constitutes an area of human rights and each big circle a business supply chain within which partnerships operate to ensure legal efficiency and enforcement. As partnerships operate today, coordination within each box remains a major challenge and coordination between partnerships in different sectors remains an even greater challenge.

There is no communication between these different spheres of partnership action. Good governance results become parcelled and a long-term and comprehensive vision is difficult to reach.

This creates a system by which human rights are discriminatorily advanced in niches and for small groups in isolation from one another. The interest of the supply chain dictates the allocation of resources for particular projects aimed at advancing human rights and players gravitate towards projects which attract funding.

Through the means of partnerships, human rights advancement moves from the supply chain towards the norm providing direction. Yet, advancement remains limited to the specific supply chain and is often unsuccessful in addressing the same human rights concerns across business and non business sectors.

For example, if child rights in a country are to be guaranteed, different partnerships must work on different supply chains, however not all supply chains attract the same interest. The case of cocoa provides evidence of this. Child labour is persistent across the African continent in fishing, mining, quarrying, cocoa and agricultural sectors. However, as campaigns focus their attention mainly on child labour in the cocoa sector, companies, NGOs and public players are alerted to and intervene heavily to protect child rights in this single supply chain. Parties are attracted to this particular sector as funding is available and action is more heavily demanded by the international community.

Despite some public agencies acknowledging the problem of child labour persisting in other sectors; the partnership effect leads to the focusing on one particular commodity supply chain.

Partnerships in fact devise projects which work towards promoting legal efficiency and enforcement. Partnerships see the role of private (businesses and NGOs) and sometimes public actors (UN and governments) as being active in the implementation of projects which provide public services (ensuring legal efficiency) and human rights monitoring systems (ensuring legal efficiency) (Utting 2002).

As partnerships are heavily dominated by business-NGO alliances, they adopt decisions which influence human rights and the lives of community members. These community

members are generally linked to the business of companies which dispense economic support.

Although vested with good intentions, partnerships, without being able to exert strong and overarching national control (that which is traditionally seen to be the role of the state) can only have limited impact. They inevitably promote organisational interests, for example a need for funding or the pursuit of business goals. This does not mean that the state will not have its own organisational goals, however its institutional apparatus has the means to coordinate the broader playing field.

Partnerships, as seen so far, create a parallel system of legal efficiency and enforcement which diverts the attention regarding good governance away from the state. Despite claims over the impossibility of the state alone to provide public services and protect human rights, governments still play a huge role in terms of human rights advancement (Ruggie 2011 2013).

A trade union member interviewed reported that 'we are bringing the privatisation of labour rights on ourselves', by attributing to companies a legitimate role in managing human rights. Boundaries between private and public spheres have become blurred in recent years, something which is particularly evidenced by the operation of partnerships (Chomsky 1999; Fleming and Cederstrom 2012; Scherer and Palazzo 2010).

With the increase in the number of public private partnerships, private, public and civil society organisations are increasingly collaborating in dispensing public policy and enforcing and monitoring human rights. Traditionally the state was considered responsible for human rights protection and public service provision (Cotterrell 1984; Crane et al 2007; Higgins 1996; Jochnick 1999). Yet as state power allegedly becomes eroded, the legitimate role of human rights advancement has been placed upon a broader range of powerful players which include companies, international organisations and NGOs (Jochnick 1999; Richter 2001; Scherer and Palazzo 2011).

This marks a big change from the traditional approach which saw companies responsible for ensuring human rights due diligence, the state acting as duty bearer to its public and NGOs holding the state accountable on behalf of local communities. However, despite huge

expectations being placed upon partnerships, this research demonstrates how, at present, partnership action remains fragmented and is shaped by different organisational interests.

Partnerships form human rights self-regulation systems to ensure legal compliance. Teubner (1987) had already suggested that our society should move towards legal self-regulatory methods. In partnerships, self-regulatory elements can be seen in the way human rights conditions are monitored with project management tools and within project boundaries. Monitoring can also be delegated to members of the community whose destiny is linked to the supply chain in question - for example the child labour monitoring system which is now being piloted in Ghana.

So far, self-regulatory methods introduced by partnerships demonstrate two weaknesses. First, when they are implemented within project frameworks and with limited involvement of the government, their actions remain restricted to specific areas/business sectors. Ultimately, legal enforcement then remains limited to specific business areas and highly fragmented. Second, self-regulatory methods still require funding to work successfully as projects need a continuous inflow of funding, to avoid the risk of failure.

Through the experience of partnerships, NGOs and companies are gaining (if not already hold) a legitimate role as human rights guardians. Questions should be raised regarding the future of partnerships and their role as legal promoters. Who will be the main player responsible for dispensing public policy and protecting human rights when the call for human rights compliance becomes louder? Who will be considered legitimately responsible?

Companies and NGOs have been participating in human rights promotion through voluntary contributions. In doing so they are succeeding in diverting attention away from what should be mandatory regulation (Utting 2002). But who will be called on to act in the long run, when citizens in poor countries strengthen their sense of entitlement to these rights?

The urge to act to address child rights in specific supply chains leads towards strategies which make it difficult to distinguish between human rights due diligence undertaken by companies and state responsibility. Power dynamics, through economic and ideological forms, shape the way partnerships operate to protect child rights. The future poses a huge challenge in relation to coordinating the actions of single partnerships and national plans to protect human rights while managing power dynamics between the various players.

ANNEX 1

Organisations are listed by affiliation group: businesses, civil society (NGOs and trade unions) and public (international organisations and government). All interviewees held a position of responsibility at the time of the field research.

I kept independent organisations and big partnerships' offices outside the above classification.

Public organisations

Name	Affiliation	Date/Location of interview
Bani Richard and 12 programme officers and assistants who implement and coordinate the work of cocoa partnership activities in Ghana.	National Programme for the Elimination of the Worst Forms of Child Labour in Cocoa (NPECLC) -Ministry of Employment and Social Welfare-	28 February 2012 Accra
Dunn Joanne	Unicef	23 November 2011 Geneva
Hyllested Ida Margarita	Unicef	21 November 2011 Geneva
Smith Benjamin	International Labour Organisation	24 November 2011 Geneva
Vasquez Maria	International Labour Organisation	24 February 2012 Accra
Willcutts, Kevin	US Department of Labour - CLCCG Partnership	3 February 2012, Washington (phone interview)

Business

Name	Affiliation	Date/Location of interview
Bhat Roopak	Kraft/Cadbury	21 February 2012

		Accra
Fairbairn Steven and Cubitt Fiona	Cargill	28 October 2011 London
Morgan Jeff	Mars	19 January & 1 February Washington (phone interviews)
Parsons Hilary	Nestlé	17 November 2011 Vevey
Rosenberg David, Brunner Gill	Ecom Agroindustrial Corp. Ltd	25 November 2011 Pully

Civil society organisations

Name	Affiliation	Date/Location of interview
Busser Esther	International Trade Union Confederation (ITUC)	18 November 2011 Geneva
Christensen Philip	Care International	3 March 2012 Accra
Duncan Irene	Education International (trade union)	29 February 2012 Accra
Hilary John	War on Want	7 February 2012 London
Hinson-Ekong Sylvia	Future Resource Development	3 March 2012 Accra
Longley Sue	International Union of Food (IUF)	23 November 2011 Geneva
Macquade Aidan	Antislavery International	4 November 2011 London
Niepold Mill	Verité (former staff) and independent consultant	2 February 2012

		Washington (phone interview)
Sakyi Adwoa Nana	International Union of Food (IUF)	24 February 2012 Accra
Tagoe Andrew	General Agriculture Workers Union (GAWU)	28 February 2012 Accra

Independent organisations

Name	Affiliation	Date/Location of interview
Imfeld Al	Researcher	16 November 2011 Zurich

Big Partnerships Head Quarters and field offices

Name	Affiliation	Date/Location of interview
Depaah Patience	International Cocoa Initiative (ICI)	20 February 2012
Guigue Muriel	International Cocoa Initiative	18 April 2011 Geneva (phone interview)
Weatherill Nick and Molinari Sonja	International Cocoa Initiative (ICI)	23 November 2011 Geneva
Ndiaye Mbalo	World Cocoa Foundation	5 March 2012 Accra

ANNEX 2

To ensure anonymity the following pseudonymous will be used.

Public organisations

Name	Description
PubOrg 1 and PubOrg 2	International organisations working globally to protect child rights in relation to business and different spheres of society.

PugOrg 3 and PugOrg 4	Public organisations with a strong role in the promotion of child rights in Ghana.
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Business

Name	Affiliation
ChokoComp 1	Food and beverage company and chocolate producer.
ChokoComp 2	Commodity trader (inc. cocoa).
ChokoComp 3	Grocery manufacturing, processing company and chocolate producer.
ChokoComp 4	Global manufacturer of food and chocolate producer.
ChokoComp 5	Multinational company specialised in trading, purchasing and distribution of grain, energy and agricultural commodities including cocoa.

Civil society organisations

Name	Affiliation
NGO α	International NGOs specialised on a wide range of humanitarian projects.
TradeU1	Global trade union federation of teachers.
TradeU2	Trade union committed to labour rights in the agriculture sector.
TradeU3	Global trade union federation which also protects labour rights in agriculture.
NGO β	International NGO committed to advocate governments and companies on human and labour rights including forced labour.
NGO γ	International NGO committed to advocate governments and companies on human rights including forced labour.
NGO δ	NGO committed to help vulnerable children and women achieve better living conditions.
NGO ϵ	International NGO committed to eradicate forced labour.
TradeU4	Global trade union federation of workers.
NGO ζ	International NGO committed to eradicate forced labour.

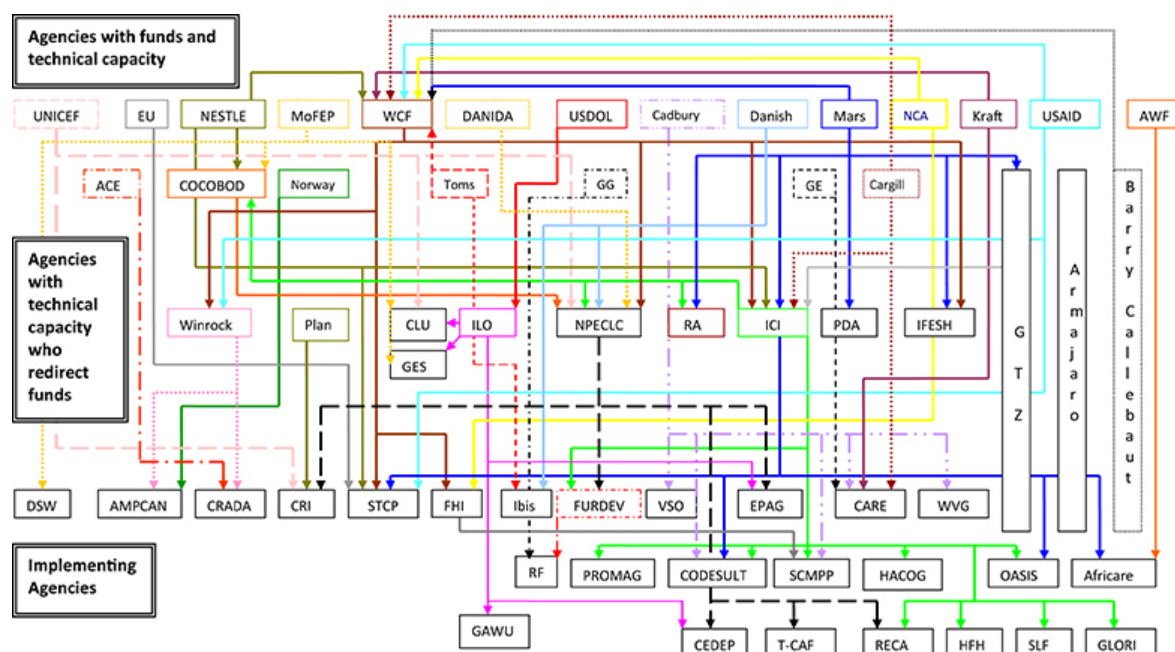
Big Partnerships Head Quarters and field offices

Name	Affiliation
PPP1, PPP2	Different offices of one public private partnership committed to sustainable cocoa supply chains.
PPP3, PPP4	Different offices of one public private partnerships committed to sustainable cocoa supply chains.

ANNEX 3

The following map and acronyms was produced by Tulane University and the are fully available online: <http://ghanadb.childlabor-payson.org/familytree.html>;
<http://ghanadb.childlabor-payson.org/acronyms.html>

The graph below is the most recent attempt to map all partnerships in Ghana and it dates back to 2010.



ACRONYMS

ANADER	Agence Nationale à Appui au Développement Rural
ADM	Archer, Daniels Midland Company/ADM Cocoa Sifca
CAOBISCO	Association of Chocolate, Biscuit & Confectionery Industries of the EU
CCPC	Community Child Protection Committee
CEPRASS	Centre d'Etudes Prospectives et Appliquées sur les politiques sociales et le system de sécurité sociale
CLASSE	Child Labor Alternatives through Sustainable Systems in Education
CLMS	Child Labor Monitoring System
CLU	Child Labor Unit
CMA	Chocolate Manufacturers Association
CMAC	Confectionery Manufacturers Association of Canada
COCOBOD	Ghana Cocoa Board
CRIG	Cocoa Research Institute of Ghana
CRS	Cocoa Research Institute of Ghana
DCPC	District Child Protection Committee
DFID	Department for International Development (UK)
ENSEA	Ecole Nationale de Statistique et d'Economie Appliquée
ECOWAS	Economic Community of West African States
ECA	European Cocoa Association
ECHOES	Empowering Cocoa Household with Opportunities and Educational Solutions
FT	Fair Trade
FHI	Family Health International
FAO	Food and Agriculture Organization of the United Nations
FAL	Forced adult labor
FEMAD	Femme Action Développement
GAWU	General Agricultural Workers' Union
GTZ	Gesellschaft für Technische Zusammenarbeit

GIG	Global Issues Group
GIS	Geographic Information System
GOG	Government of Ghana
ISSER	Institute of Statistical, Social And Economic Research
ICI	International Cocoa Initiative
ICVB	International Cocoa Verification Board
IFESH	International Foundation for Education and Self Help
IITA	International Institute of Tropical Agriculture
ILO	International Labor Organization
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour
LUTRENA	Combating the Trafficking of Children for Labour Exploitation in West and Central Africa
MESW	Ministry of Employment and Social Welfare
MMYE	Ministry of Manpower, Youth and Employment
MOFEP	Ministry of Finance and Economic Planning
M&E	Monitoring and Evaluation
NCA	National Confectioners Association
NGO	Nongovernmental organization
NPECLC	Ghana National Program for the Elimination of Worst Forms of Child Labor in Cocoa
OCHA	Office for the Coordination of Humanitarian Affairs
PSI	Population Services International
RENFCAP	Renforcement de Capacit
SSTE	Système de Suivi du Travail des Enfants
STCP	Sustainable Tree Crops Program
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund

UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USA	United States of America
USAID	United States Agency for International Development
USDA	United States Department of Agriculture
USDOL	United States Department of Labor
USG	United States Government
WACAP	West Africa Cocoa/Commercial Agriculture Program to Combat Hazardous and Exploitative Child Labor
WAHO	West African Health Organisation
WCF	World Cocoa Foundation
WFCL	Worst Forms of Child Labor
WFP	World Food Program
WHO	World Health Organization

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